

**MINUTES**  
**(Audio Recording Available)**  
**BOARD OF ZONING APPEALS**  
**Meeting of April 19, 2012**

Pre-Review Meeting  
6:00 p.m.  
Law Conference Room

1. Review docket items.

**REVIEW MEETING**  
**6:30 P.M.**  
**Auditorium**

2. **Roll Call**

The meeting was called to order at 6:34 P.M.

Members Present

Cynthia Bender  
Mary Breiner  
Kyle Krewson, Vice Chair  
Jennifer Matousek  
James Nagy, Chair

Others Present

Mary Leigh, Secretary, DCD Programs Manager, P&D  
Jeff Fillar, Asst. Bldg. Comm., Residential  
Dru Siley, Director of P&D and Asst. Safety Director  
Kevin Butler, Law Director

3. **Approve Minutes of the March 15, 2012 meeting.**

A motion was made by Mr. Krewson, seconded by Ms. Matousek, to **APPROVE** the minutes of the March 15, 2012 meeting. All of the members voting yea, the motion passed.

4. **Opening Remarks.**

Ms. Leigh read the Opening Remarks.

**REQUEST FOR REHEARING**

5. **Docket 3-05-12** **1507 Waterbury Drive**

Maria Scalish, property owner and applicant, requests approval for a variance pursuant to Section 1121.05(b) – Height Regulations. The applicant requests a five foot (5') variance to the allowable fifteen foot (15') in order to construct a twenty foot (20') high garage. This property is located in an R1H, Single Family and High Density district. The request for a variance was **DENIED** at the meeting of March 15, 2012 as neither the applicant nor a representative was present. (Page 5)

A motion was made by Ms. Matousek, seconded by Ms. Breiner, **GRANT** the request for a rehearing. All of the members voting yea, the motion passed.

**REHEARING**

6. **Docket 3-05-12**

**1507 Waterbury Drive**

Maria Scalish, property owner and applicant, requests approval for a variance pursuant to Section 1121.05(b) – Height Regulations. The applicant requests a five foot (5') variance to the allowable fifteen foot (15') in order to construct a twenty foot (20') high garage. This property is located in an R1H, Single Family and High Density district. (Page 5)

Maria Scalish was present and deferred to her spouse, Frank A. Scalish, to explain the request. They proposed to raze their dilapidated garage and rebuild with a two car garage slightly higher than the current.

Mr. Fillar said the Division of Housing and Building had no objections. There were no comments or questions from the public or the Board.

A motion was made by Ms. Matousek, seconded by Ms. Bender, to **GRANT with the stipulation the extra height is used for incidental storage only**. All of the members voting yea, the motion passed.

**NEW BUSINESS**

8. **Docket 04-10-12**

**18093 Clifton Road**

Christine R. Kraay property owner and applicant, requests approval for a variance pursuant to Section 1153.02(c) – Regulations. The applicant requests a one foot (1') variance to the six foot (6') maximum in order to install a seven foot (7') fence. This property is located in an R2, Single Family and Low Density district. (Page 7)

Christine R. Kraay was present and deferred to her spouse, Matthew Kraay, to explain the request. They proposed to replace the stockade standard six foot high fence (on the south and east sides) with a six foot wooden fence topped with a one foot lattice work detail for aesthetics. He continued that adjoining the neighbors had no concerns with it. They wanted to have a solid fence to reduce the amount of vehicular noise.

Mr. Fillar said the Division of Housing and Building had no objections. There were no comments or questions from the public. Mr. Krewson said he was not a fan of fences higher than six feet in a residential but felt the proposed was appropriate for the neighborhood.

A motion was made by Mr. Krewson, seconded by Ms. Bender, to **GRANT** the request as submitted. All of the members voting yea, the motion passed.

9. **Docket 04-11-12**

**2060 Lakeland Avenue**

Ken Kulczycki, property owner and applicant, requests approval for two variances pursuant to Section 1121.09(c) – Maximum Lot Coverage and Section 1121.10(c) – Additional Accessory Structure Regulations. The applicant requests a five hundred, eighty-one (581) square foot variance to the maximum lot coverage and a six foot (6') variance to the ten foot (10') side lot for a pool in order to build four feet (4') off the property line. This property is located in an R1H, Single Family and High Density district. (Page 14)

Ken Kulczycki was present and deferred to his spouse, Bonnie Kulczycki, to explain the requests. They wanted to construct an in-ground pool. A new garage had been built which took a substantial amount of the yard. They would like to finish the landscaping, add a pool, and improve the driveway. Letters of support from each of her side neighbors were provided with the application.

Mr. Fillar stated that although it was unusual to cover the back yard with a pool, the Division of Housing and Building had no objections. There were no comments or questions from the public. Mr. Krewson inquired about site plans to which Ms. Kulczycki said plans had been submitted. An automatic cover would be installed to close within one minute. Ms. Matousek noted a fence was installed already. Ms. Breiner asked about fencing across the driveway. Ms. Kulczycki said a fence would be run along the pool and the north neighbor's existing fence would be replaced resulting in a fully enclosed pool area with gates to the driveway.

A motion was made by Ms. Matousek, seconded by Ms. Breiner, to **GRANT** the request for both variances as submitted. All of the members voting yea, the motion passed.

**10. Docket 04-12-12 1485 Clarence Avenue**

Rudy Stanek, property owner and applicant, requests approval for a variance pursuant to Section 1121.05(b) – Height Regulations. The applicant requests a five foot (5') variance to the allowable fifteen foot (15') in order to construct a twenty foot (20') high garage. This property is located in an R1H, Single Family and High Density district. (Page 17)

Rudy Stanek was present to explain the request. The garage needed replacing and as he rented a storage unit currently, he would like a higher one to store his incidentals.

Mr. Fillar stated the problem was the tub stored in the driveway to which Mr. Stanek replied it would be removed.

Robert McKee, 1486 Grace Avenue, was directly behind the garage. He felt the extra height would not be in keeping with the other garages. He did not object to it being a three car garage, just the height. A higher garage would obstruct his view of everything else.

Mr. Stanek said he had hired an architect to match the buildings when originally built. He had other drawings but did not bring them to the meeting.

Mr. Krewson asked about the driveway. Mr. Stanek replied it would be stamped concrete the full length, along with the service walks. Mr. Krewson asked if the height could be reduced to which Mr. Stanek replied it might be reduced. Mr. Krewson said he would like to see a garage of lower height and would like to see elevations. Ms. Breiner asked Mr. Fillar about the size of the garage, if there was a minimum height requirement. Mr. Fillar replied there was not; because it was for incidental storage, he could increase to whatever would be approved. If there were fifteen foot ridge, it would be shallow for a three car garage.

Mr. Stanek asked for a deferral to the next meeting at which time he would bring drawings.

The Board decided to **DEFER** to application to the meeting of May 17, 2012.

**11. Docket 04-13-12 1646 Lewis Drive**

Brendan Grady, of URS Corporation and applicant, requests approval for a variance pursuant to Section 1121.05(b) – Height Regulations. The applicant requests a two foot (2') variance to the allowable fifteen foot (15') in order to construct a seventeen foot (17') high garage. This property is located in an R1H, Single Family and High Density district. (Page 19)

Brendan Grady was present to explain the request. His brother was the owner of 1646 Lewis. The garage was dilapidated and needed to be replaced. He was trying to match the roof pitch of 6-12 to the pitch of the house and would be limited to incidental storage.

Mr. Fillar said the Division of Housing and Building had no objections. There were no comments or questions from the public or Board.

A motion was made by Ms. Matousek, seconded by Mr. Nagy, to **GRANT with the stipulation the extra height is used for incidental storage only**. All of the members voting yea, the motion passed.

**12. Docket 04-14-12 1088 Maplecliff Drive**

Stephen and Juliann Sutton, property owners and applicants, request approval for a variance pursuant to Section 1121.03 (I) – Permitted Accessory Uses. The applicants request to build a two hundred, fifty-seven (257) square foot gazebo and need a two hundred, seventeen (217) square foot variance to the allowed forty (40) square foot gazebo. Not variance for lot coverage is needed. This property is located in a R1H, Single Family and High Density. (Page 25)

Stephen and Juliann Sutton were present to explain the request.

Mr. Fillar said the Division of Housing and Building had no objections. There were no comments or questions from the public. Mr. Krewson asked about the space behind the gazebo. Ms. Sutton said there would be a landscaped, green space with new fencing along the property line. Ms. Matousek asked about the fireplace. Ms. Sutton said they were planning to consult with and obtain approval from the Fire Department once they received approval for the variance. Mr. Krewson felt the backyard would be crowded.

A motion was made by Ms. Bender, seconded by Ms. Breiner, to **GRANT** as submitted. **The Board recommended that the homeowners obtain approval from the Fire Department for the outdoor fireplace.** Ms. Bender, Ms. Breiner, Ms. Matousek and Mr. Nagy voting yea, Mr. Krewson voting nay, the motion passed.

Mr. Butler clarified the board did not object the fireplace and was not considered in the motion. Mr. Nagy concurred.

**13. Docket 04-15-12 1526 Parkwood Road**

Ken Zebracki, property owner and applicant, requests approval for a variance pursuant to Section 1121.03 (d) – Permitted Accessory Uses. The applicant requests a variance to

construct a two story rear deck which is over forty-two (42) inches above grade. This property is located in an R1H, Single Family and High Density district. (Page 30)

Robert A. Kitts was present to explain the request; a letter of authorization had been received. There had been a second floor porch that had deteriorated. The owner wanted to replace it with a second and first floor deck in order to accommodate the second floor door.

Mr. Fillar said the Division of Housing and Building had no objections.

Sean Duffy, 1532 Parkwood Road, did not object to the second floor rebuild, but wanted to know what the object was on the first floor against the fence. Mr. Kitts said it was a hot tub, and the second floor deck would extend over it. Mr. Duffy asked about maintenance of the fence. He asked for assurance that contractors would follow the laws. He asked the owners be cognizant and aware that his son's bedroom window was next to the patio and asked his neighbors be respectful and quiet. He did not oppose the request.

Mr. Krewson asked what room was the window on the second floor. Mr. Kitts replied it was a bedroom. He assured the board the second floor deck would be used for lounging only. He told the board he was not aware of any problems of neighbors complaining of noise in the past.

A motion was made by Mr. Krewson, seconded by Ms. Matousek, to **GRANT** the request as submitted. All of the members voting yea, the motion passed.

**14. Docket 04-16-12**

**1213-15 Cranford Avenue**

Chris O'Loughlin, applicant, requests approval for a variance pursuant to Section 1123.03(d) – Permitted Accessory Uses. The applicant requests a variance to construct a two story rear deck. This property is located in an R2, Single and Two Family district. (Page 34)

Chris O'Loughlin was present to explain the request. The decks needed to be replaced. The first floor would be the same dimensions as existed, and the second floor deck would be expanded to that of the first. None of the neighbors had expressed opposition, and there were a number of two story decks in the immediate area.

Mr. Fillar said the Division of Housing and Building had no objections. There were no comments or questions from the public. Mr. Krewson asked if Mr. O'Loughlin had received any complaints from anyone within the past nine month. Mr. O'Loughlin said there were none to his knowledge.

A motion was made by Ms. Breiner, seconded by Ms. Bender, to **GRANT** the request as submitted.

**15. Docket 04-17-12**

**17873 Lake Road**

Cindy Stockman, of Stockman Architecture Ltd. and applicant, requests approval for two (2) variances pursuant to Section 1121-10(c) – Additional Accessory Structure Regulations. The applicant requests to install an in-ground pool/pool house three feet (3') from the property requiring a seven foot (7') variance to the required ten foot (10') around a pool. This property is located in an R1L, Single Family and Low Density district. (Page 43)

Ms. Matousek recused herself from discussion and vote for the application of Docket 04-17-12, 17873 Lake Road.

Cindy Stockman and Joe Starck, property owner, were present to explain the requests. Mr. Starck described the narrow strip of land at the back of his property where a former greenhouse had been. The width of the lot was thirty feet (30'), and the width of the proposed pool was eighteen feet (18').

Mr. Fillar said the Division of Housing and Building was concerned with the line of sight from the main house over the pool house to the pool. The lot is large in size and the pool could be located elsewhere in the back yard.

Ms. Stockman responded the rear lot would be fenced, and the gate would have an alarm. Mr. Starck added they would have an automated lockable cover for the pool to prevent unauthorized, unsupervised use of the pool. The only other spot on the lot to place a pool would be visible from the street.

Ms. Breiner asked about the distance from the proposal to the adjoining neighbors' houses and garages. Utilizing an image projected on the screen, Mr. Starck described the individual structures.

Kevin Hinkel, Attorney with Kadish, Hinkel & Weibel, 1360 East Ninth Street, Cleveland, was present on behalf of the adjoining neighbors, George and Grace Frank. Mr. Hinkel read the objections to the project; a copy of the Frank's objection to the project was given to the Board and submitted for record. They objected to the location of the pool and lighting. It was seventy (70') from the Frank's rear patio to the pool, and two-hundred (200') from the Starck's primary residence. If the pool was placed on the side lot and was visible from the street, screening could be added. The lighting, setback and noise factors would disturb the surrounding property owners.

Grace Frank, 1101 W. Forest Road distributed a letter to the Board members and read it into record. She objected to the proposed project being built in close proximity to her property.

Mr. Nagy asked Ms. Stockman and /or Mr. Starck to elaborate on the proposal. Mr. Starck apologized to Mrs. Frank and said there would not be a pool. Mr. Starck requested to formally WITHDRAW his request for two variances.

The Board decided to **WITHDRAW** the application from consideration.

George Frank, 1101 W. Forest Road, said the Public Notice letters were not delivered and/or received in a timely fashion and suggested there was a glitch somewhere in the notification system. Mr. Butler thanked him for his comment.

16. **Docket 04-18-12** **14013 Detroit Avenue**  
**GetGo**

Pat Avolio, of Giant Eagle, Inc. and applicant, requests approval for two (2) variances pursuant to Section 1129.06 – Minimum Yard Requirements for Principal Uses and Section 1153.02 LCO. The applicant requests 1) a variance of thirty-seven point fifty-two feet

(37.52') from a maximum permitted setback of five feet (5') to forty-two point fifty-two feet (42.52) for a principal structure and 2) for a two foot (2') variance on the height of a fence from six feet (6') to eight feet (8'). This property is located in a C3, Commercial and General Business and an R1H, Single Family and High Density district. (Page 52)

Pat Avolio was present to explain the requests. The plan was reviewed and approved conditionally by the Architectural Board of Review (ABR) at its meeting on April 12, 2012. Mr. Avolio described the plan's images projected on the screen of the existing structure that would be demolished and the parking lot. Two residential use parcels and houses would remain as residential uses. One of the needs for a variance was because the State of Ohio required an emergency stop for the fueling dispensers be located within one hundred feet (100') radius of the furthest dispensing island, and the supervision of the fuel dispensing units needed to be in direct line of sight. He then described the context plan and its surrounding area, and the areas of the new development; the store, fuel dispensing islands, landscaping, and the two houses. He described the businesses along the north side of Detroit Avenue across from the proposed project. Although not drawn on the plans, additional rows of trees (deciduous and conifers) would be added to the Bunts Road/southern property line. The second variance was for an increase height of fence, in addition to the plant screening. Mr. Avolio read the highlights of the Variance Application Narrative that was submitted with the application.

Mr. Siley said that Mr. Butler and he would be representing the city. Mr. Butler stated the administration supported the request for the variances.

Ms. Breiner asked about traffic flow. Mr. Siley said the applicant had submitted a trip generation analysis at the ABR meeting.

Mr. Krewson asked about the location of the fence. Mr. Avolio said there was a combination fence/wall on Parkhaven Row currently and an existing board on board fence at Bunts. They would add supplemental fencing. On the south portion residential line there was a proposal for an eight foot (8') fence.

Mr. Avolio confirmed the minimum number of fuel dispensing pumps needed for the reinvestment was eight. He confirmed the canopy could possibly be included in a variance because of its height; it was in the same code as the building line map.

Dennis Pehotsky, 1430 Parkhaven Row, asked about hours of operation, delivery trucks, lighting, property values, and security. Mr. Nagy thanked Mr. Pehotsky for his comments but reminded him and the public the meeting was for zoning variances. When Mr. Nagy asked Mr. Avolio about the parking lot on Parkhaven Row and future fencing, Mr. Avolio replied it was not part of the development. The lot and the two vacant houses would be offered for sale after completion. Ms. Matousek asked about the parking lot to the west to which Mr. Avolio replied Giant Eagle owned it.

Matt Herberger, 1448 Bunts Road, said he was in favor of the request of a variance for a fence. He was not in favor with the setback variance request for the emergency stop; he suggested a reduction in the number of pumps on the furthest south point.

Renee Giannoulis, 1446 Parkhaven Row, supported the variance for a fence. She would like to see it being higher, brick wall. She was opposed to the variance for the setback and felt the number of pumps should be reduced.

Kim McDonald, 1460 Bunts Road, was in support of a higher fence. She wanted it to be a higher barrier to fumes and vapors. She asked for clarification about the existing chain link fence.

For the board, Mr. Avolio reiterated the reasons for requested variances.

Mr. Siley said there has been a great deal of reinvestment in the City of Lakewood with the past couple of years. The problem was the population density and the close proximity of commercial areas. He reiterated how the applicant showed sensitivity with large buffer, landscaped areas, wider sidewalks, reduction of impervious surfaces, location of fuel dispensing pumps, and structures.

Mr. Pehotsky asked if there were going to be fuel resistors, and what was the fencing material? Mr. Avolio said the fence material was TREX.

Renee Giannoulis asked why the number of pumps could not be reduced. Mr. Nagy repeated the number of pumps was in correlation to the amount of monetary return. The vapor recovery system was discussed at the ABR meeting, in addition to a lot of the other issues mentioned today.

Mr. Siley stated the questions being asked were addressed at the previous ABR meeting of April 12, 2012.

Amy Herberger, 1448 Bunts Road, was opposed to the variances. She wanted a brick wall and a smaller scaled development.

Ms. Breiner asked about the height of the fence. Mr. Siley said the ABR decided the height and the addition of more trees would be better than a wall; the latter would increase the feel of being commercial.

Kim McDonald said all of the greenery was on the gas station side, and as the residents were going to see a fence, they would like to see a wall instead.

Mr. Siley said there was public comment at the ABR meeting, and the residents spoke. Ms. McDonald said the decision was made despite their opposition.

Mr. Krewson said he would like to see a step down of the fence as it approached the sidewalk. Mr. Siley said a step down would be appropriate.

Mr. Krewson thanked the public for being at the meeting and expressing their concerns. He said there were twenty gas pumps at either the end of his street, St. Charles. He felt that Giant Eagle did have the best interest of the community in mind.

Mr. Butler asked for each board member to express his/her opinions as to why they will vote prior to a vote.

A motion was made by Mr. Krewson, seconded by Mr. Nagy, to **GRANT** the requests with the stipulation the fence is a step down.



Ms. Matousek said the current GetGo location was very congested and was impressed with the proposal.

Ms. Bender said there was a commercial restaurant and a bar just a few doors from her home. She appreciated the residents' concerns. She was pleased with the plans for the proposal.

Ms. Breiner sympathized with the residents. She agreed that Lakewood needed development. She wanted the city and Giant Eagle to consider a ten foot fence.

Mr. Nagy echoed his colleagues' comments.

All of the members voting yea, the motion passed.

#### **OLD BUSINESS**

7. **Docket 3-07-12**

**1370 Beach Avenue**

A. Lukas Bandza, property owner and applicant, requests approval for a variance pursuant to Section 1143.05 – Schedule of Uses and Space Requirements. The applicant requests to not build a garage; the owner had no knowledge of requirement for parking after three transfers. This property is located in an R2, Single Family and Two Family district. The request for a variance was DEFERRED from the meeting in March. (Page 4)

Neither the applicant nor a representative was present to explain the request.

A motion was made by Nagy, seconded by Mr. Krewson, to **DENY** the request. All of the members voting yea, the motion passed.

17. **Adjourn.**

A motion was made by Mr. Krewson, seconded by Ms. Matousek, to **ADJOURN** the meeting at 8:41 P.M. All of the members voting yea, the motion passed.

Signature Jan S Nagy Date June 21, 12



### Oath

I, the undersigned, hereby agree that the testimony I give at this proceeding will be the truth, the whole truth and nothing but the truth:

PRINT NAME:

1. Maria M. Scalish
2. FRANK A. SCALISH
3. Christine Krazy
4. MATTHEW KRAZY
5. Kenneth E. Kulczyk
6. Boniek Kulczyk
7. RUDY STANEK
8. ROBERT MCKEE
9. BRENDAN GRADY
10. Stephen Sutton
11. gm Sutton

SIGN NAME:

1. Maria M. Scalish
2. Frank A. Scalish
3. Christine Krazy
4. Matthew Krazy
5. Kenneth E. Kulczyk
6. Boniek Kulczyk
7. Rudy Stanek
8. Robert McKee
9. Brendan Grady
10. Stephen Sutton
11. Johann M. Sutton

Prepared by: The City of Lakewood Law Department, 12650 Detroit Ave., Lakewood, Ohio 44107

FOR CITY USE ONLY

Lakewood Administrative Procedure: ☐ ABR/BBS/Sign ☐ Citizens Advisory ☐ Civil Service ☐ Dangerous Dog  
☐ Income Tax Appeals ☐ Loan Approval ☐ Nuisance Abatement Appeals ☐ Planning ☒ Zoning Appeals ☐ Other:

Date of Proceeding: 4/19/2012



### Oath

I, the undersigned, hereby agree that the testimony I give at this proceeding will be the truth, the whole truth and nothing but the truth:

PRINT NAME:

1. Robert A. Kitts
2. Sean Duff
3. Chris O'Loughlin
4. Cindy Stockman
5. Joe Starch
6. Kevin Hinkel
7. Grace Jacob
8. PASQUALE "PAT" NOLAN
9. MATT HORBORGOR
10. Kim McDonald
11. Renee Grammaticis

SIGN NAME:

1. Robert A. Kitts
2. Sean Duff
3. Chris O'Loughlin
4. Cindy B. Stockman
5. Joe Starch
6. Kevin Hinkel
7. Grace Jacob
8. Pasquale "Pat" Nolan
9. Matt Horborge
10. Kim McDonald
11. Renee Grammaticis  
Amy Herberger

Prepared by: The City of Lakewood Law Department, 12650 Detroit Ave., Lakewood, Ohio 44107

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Lakewood Administrative Procedure: ☐ ABR/BBS/Sign ☐ Citizens Advisory ☐ Civil Service ☐ Dangerous Dog  
☐ Income Tax Appeals ☐ Loan Approval ☐ Nuisance Abatement Appeals ☐ Planning ☒ Zoning Appeals ☐ Other:

Date of Proceeding: 4/19/2012



April 14, 2012

I hereby authorize Bob Kitts to appear as my agent before the Lakewood, OH Board of Zoning Appeals for the April 19, 2012 meeting regarding our request for a variance.

Signed:

  
Kenneth P. Zebracki  
1526 Parkwood Rd.  
Lakewood, OH 44107

4/14/12  
Date

Witnessed:

  
Deneen Griffin  
1526 Parkwood Rd.  
Lakewood, OH 44107

4/14/12  
Date





## Leigh, Mary

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**From:** Siley, Dru  
**Sent:** Thursday, April 19, 2012 11:16 AM  
**To:** Leigh, Mary; Mladek, Jennifer; Butler, Kevin; Fillar, Jeff  
**Subject:** Pool on Lake - Variance Discussion

Let's all meet today at 4:00 in P&D to go over the pool on Lake. Thanks.

### 1173.04 VARIANCES.

#### (a) Submission Requirements.

(1) A request for a variance(s) shall be on a form approved by the Commissioner and shall, at a minimum contain the following information:

- A. The name, address, and telephone number of the applicant.
- B. Proof of ownership, legal interest, or written authority to make the application.
- C. A description of the variance(s) requested and a narrative establishing and substantiating the justification for the variance(s) pursuant to the criteria set forth in subsections (c) or (d) of this Section 1173.04, whichever is applicable.
- D. Site plans, elevations, and other drawings at a reasonable scale to show the need for the variance(s).
- E. Any other documents reasonably deemed necessary by the Commissioner.
- F. The fee established pursuant to Section 1173.06.

(2) Upon receipt of a request for a variance(s), the Commissioner shall, within three (3) working days, make a preliminary review of the application to determine compliance with the requirements of subsection (a)(1) hereof. If the Commissioner determines that the application is not complete, the Commissioner shall immediately notify the applicant; otherwise, the Commissioner shall forward the application to the Board for review.

#### (b) Minor Area Variances.

(1) The Commissioner is hereby authorized to grant minor area variance(s), as hereinafter defined.

(2) **MINOR AREA VARIANCE** means an area variance(s) of less than ten percent (10%) of the permitted lot coverage, or of the required side yard or rear yard, as set forth in the applicable section of this Code.

(3) When determining whether to grant a minor area variance(s), the Commissioner shall consider whether the applicant will experience a practical difficulty by applying the criteria set forth in subsection (c) herein.

(4) Where application is made for a minor area variance(s), the applicant shall provide, on a form approved by the Commissioner, written evidence that the owners of properties abutting the subject property have been informed of the project and variance(s) requested and do not object to same; where the owners of abutting properties do not object, the Commissioner is authorized to grant the variance(s) and



issue the necessary permit(s).

(5) A decision **of** the Commissioner to deny the variance(s), or where the Commissioner has received an objection to the application from an abutting property owner, may be **appealed** to the **Board** pursuant to Section 1173.05.

(c) The following factors shall be considered and weighed by the Commissioner and/or **Board**, whichever is applicable, when determining whether an applicant will experience practical difficulty:

(1) Whether there exist site conditions, such as narrowness, shallowness, or topography, unique to the property in question that are not applicable generally to other lands or structures in the same **zoning** district;

(2) Whether the property in question is located near a non-conforming or non-harmonious use, structure, or site conditions, or whether the property in question abuts a less restrictive **zoning** district;

(3) Whether the property in question will yield a reasonable return or whether there can be any beneficial use **of** the property without the variance(s);

(4) Whether the variance(s) is substantial;

(5) Whether the essential character **of** the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result **of** the variance(s);

(6) Whether the variance(s) would adversely affect the delivery **of** governmental services (e.g., water, sewer, refuse removal);

(7) Whether the property owner purchased the property with knowledge **of** the **zoning** restriction;

(8) Whether the property owner's predicament feasibly can be obviated through some method other than a variance(s); and

(9) Whether the spirit and intent **of** the **Code** would be observed and substantial justice done by granting the variance(s).

(Ord. 91-95. Passed 10-7-

96.)

(d) The following factors shall be considered by the **Board** or Commission, where applicable, when determining whether an applicant will suffer an unnecessary hardship; such hardship must be demonstrated by clear and convincing evidence as to **ALL** **of** the following:

(Ord. 24-98. Passed 5-18-98.)

(1) The property cannot be put to any economically viable use under any **of** the permitted uses in the **zoning** district in which it is located;

(2) The variance(s) request stems from a condition which is unique to the property at issue and not ordinarily found in the district;

(3) The hardship condition is not created by actions **of** the applicant;

(4) The applicant purchased the property without knowledge **of** the **zoning** restriction;

(5) The variance(s) sought is the minimum which will afford relief to the applicant;

(6) The granting **of** the variance(s) will not adversely affect the rights **of** those property owners to whom notice is required under subsection (e) herein;

(7) The granting **of** the variance(s) will not adversely affect the public health, safety, or general welfare; and

(8) The variance(s) will be consistent with the general spirit and intent **of** this

*Code.*

(Ord. 91-95. Passed 10-7-

96.)

**Dru Siley, Director**

Department of Planning and Development &

Division of Housing and Building

City of Lakewood

p. 216.529.6634

f. 216.529.5936

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FAX NO.: 216-529-5907

Lakewood Board of Zoning Appeals

FROM: Kevin M. Hinkel

RE: In re: Docket Number: 04-17-12

Property Address: 17873 Lake Road, Lakewood, Ohio

Property Owner: Mr. Joseph and Dr. Rebecca Starck

Copies To:

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A LEGAL PROFESSIONAL ASSOCIATION

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April 19, 2012

**VIA FACSIMILE ONLY [216-529-5907]****ATTN: MARY LEIGH**

Lakewood Board of Zoning Appeals  
Lakewood City Hall  
12650 Detroit Avenue  
Lakewood, Ohio 44107

In re: Docket Number: 04-17-12  
Property Address: 17873 Lake Road, Lakewood, Ohio  
Property Owner: Mr. Joseph and Dr. Rebecca Starck

Dear Members of the Board of Zoning Appeals:

This correspondence relates to Stockman Architecture Ltd.'s application on behalf of Mr. and Dr. Starck (the "Property Owners") to the Board of Zoning Appeals requesting variances related to the installation of an in-ground swimming pool and the erection of a pool house at the above-captioned property (the "subject property"). Our firm has been engaged by Mr. and Mrs. George Frank (the "Franks"), owners of the residence located at 1101 West Forest Road, to examine the legitimacy of the variance requests and the affect the requested variances will have on neighboring properties.

The subject property and the Franks' property are located in Clifton Park. Clifton Park is widely considered to be among the best locations in Lakewood, with its stately homes and generous yards. Many of the neighbors have resided in Clifton Park for years and regard the quietness of the neighborhood as one its best assets. It is a reasonable expectation of the residents of the City of Lakewood, that the City will continue to protect the character and value of the properties of the City and the individual neighborhoods. The granting of the requested variances will adversely affect the neighboring properties' character and value. Most importantly, the granting of the requested variances will allow the Property Owners to transfer the adverse effects of the emanation of noise and light from the pool and pool house areas to the neighboring properties to the full and complete exclusion of any of such inconveniences to their primary residence and primary exterior area.

This correspondence provides an analysis of the significant detrimental effects the requested variances will have on adjoining properties. Moreover, an examination of the Codified Ordinances of Lakewood (the "Code") demonstrates that the application falls significantly short of the "practical difficulties" and "unnecessary hardship" tests outlined in Section 173.04(c) and (d) of the Code.

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KADISH, HINKEL & WEIBEL

**I. Swimming Pool Variance Request**

The Property Owners have requested that variances be granted to reduce the setback requirement from ten feet to three feet with regard to the swimming pool. Section 1121.10(c) of the Code contains the setback requirement of a swimming pool, which states:

"No family swimming pool shall be located closer than ten feet to the side or rear property line of the lot upon which it is situated. The Commissioner may grant a variance to the ten foot side and/or rear line requirement for portable family swimming pools, provided that written consent from each abutting property owner is filed with the application for variance."

Pursuant to Section 1173.04 of the Code, a minor variance is an area variance of less than 10% of the permitted lot coverage, or of the required side yard or rear yard, as set forth in the applicable section of the code. Accordingly, the Property Owners' requested variances fail to qualify as a minor area variance. The Property Owners' variance requests significantly exceeds the 10% area variance limit as the request variances are a reduction by more than two-thirds of the setback requirement, from ten feet down to three feet. Additionally, the Property Owners' request falls significantly short of the "practical difficulties" and "unnecessary hardship" tests outlined in Section 1173.04(c) and (d) of the Code. Similarly, and as further discussed below, the granting of the side yard setback variances (without the granting of additional yet unrequested variances) will result in the Property Owners' requirement under Section 1722.10(j) to project two to five foot candles of light into the first 7 feet of the Franks' backyard

**A. Practical Difficulties Analysis**

The following factors set forth in Section 1173.04(c) are utilized to determine whether area variances should be granted based upon the applicant's practical difficulty:

1. Whether there exist site conditions, such as narrowness, shallowness, or topography, unique to the property in question that are not applicable generally to other lands or structures and the same zoning district?

**Analysis:** The subject property consists of a significant size lot. Per the Auditor's record, the lot size of the subject property is approximately 27,700 square feet. It appears based upon the plat map, which was attached to the submitted application that the Property Owners could place the swimming pool closer to the house without detrimentally affecting so many abutting properties. Additionally, the Property Owners could reduce the size of the swimming pool to be in compliance with the ten foot setback requirement. The projected dimension of the swimming pool is 18' by 32' feet. It is clearly apparent that the location of the pool house directly to the north of the swimming pool represents the Property Owners' choice to obfuscate any view of the pool area and to block the noise and lighting of the pool area from their own primary residence and primary exterior living area.

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2. Whether the property in question is located near a non-conforming or non-harmonious use, structure, or site conditions, or whether the property in question abuts a less restrictive zoning district? Not applicable.
3. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance(s)?

**Analysis:** The subject property has a beneficial use if the variance requests are denied. For many years this portion of the subject property has been used for quiet purposes, most recently, as a greenhouse, with no diminution of value to the homeowners. This space acts as a buffer from other residents so it serves a useful purpose as it is.

4. Whether the variance(s) is substantial?

**Analysis:** As was previously discussed the variances are substantial. The Property Owners are requesting to reduce the setback by more than two-thirds of the requirement, from ten feet down to three feet. Further, it is important to note that side yard setback for the swimming pool is ten feet from the property line, the lighting requirement regarding a swimming pool extends to ten feet from the edge of the pool, and the side yard setback for a primary structure, which arguably the 780 square-foot pool house is, no less than ten feet per side and 25 feet total per both sides. Section 1121.07.

5. Whether the essential character of the neighborhood would be significantly altered or whether adjoining properties would suffer a substantial detriment as a result of the variance(s)?

**Analysis:** The pool will significantly alter the character of the neighborhood and adjoining properties will be adversely affected. As previously mentioned, Clifton Park is known as a quiet, dignified neighborhood. One of the defining characteristics of Clifton Park is its serenity. The construction of the pool and the pool house only three feet from abutting properties will no doubt result in an increase in noise and light. As is the case with many Lakewood homes, the Franks' home was originally constructed with steam heat and has no air conditioning. For over the past 40 years, the Franks have enjoyed their home during the summer heat by opening the windows and enjoying the breeze off of Lake Erie. Certainly, the Property Owners enjoyment of the pool area will result in noise which carries across the property line. Contrastingly, the emanation of noise and light will not affect the Property Owners in any way given the chosen location of the improvements.

Section 1722.10(j) of the Code requires lighting for a pool for a distance of ten feet from the edge of the pool with lighting and to be maintained between the limits of two and five foot-candles of light. Based upon discussions with an electrical contractor, a 1 to 1.5 foot candles measurement is what is typical for a normal parking lot and a 5 foot candles measurement is a requirement for a Walmart parking lot. If the requested variances are granted the lighting required for the pool would be only three

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feet from adjoining neighbors instead of a ten foot setback. With a three foot setback, abutting landowners would experience substantial light bleeding into their yards at night when the pool is in use.

The Property Owner has not requested a variance on the lighting to reduce the distance to three feet from the edge of the pool. There are concerns with reducing the distance from ten feet to three feet. One such concern is use of the pool at night when lights will only be three feet from the property line to the edge of the pool. It is counsel's understanding based upon discussions with a local electrician that lighting **must be at least five feet back** from the edge of a pool as a precautionary measure taken against electrocution. Additionally, there are electrical power lines that will suspend over the projected location of the swimming pool and continue to bypass over neighboring properties. The Franks had a safety assessment of this potential danger performed, which is attached as Exhibit 1. Section 680.22(A)(2) requires receptacles, other than those for water-pump motors, to be no less than 6 feet from the inside walls of the pool. The basis for this distance is that nobody within the pool can reach a receptacle, such as an electrical light, while being in the pool. That being the case, how the pool decking will be lit given the neighboring property line being 3 feet away is a question.

6. Whether the variance(s) would adversely affect the delivery of governmental services; (e.g., water, sewer, refuse removal)? Not applicable.
7. Whether the property owner purchased the property with knowledge of the zoning restriction?

**Analysis:** The Property Owner plainly purchased the land with full knowledge of the zoning restrictions in place. Certainly, the Property Owners must have been aware of the shape of the lot when they purchased the subject property. Therefore, any complaints about their inability to utilize that portion of the subject property are inappropriate.

8. Whether the property owner's predicament feasibly can be obviated through some method other than a variance(s)?

**Analysis:** The Property Owners have no "predicament" that needs to be obviated through a different use. The plot of land which the swimming pool is to be located was formerly used as a greenhouse, although that use ceased many years ago. To the extent there is a "predicament" here, it is because the Property Owner has created it. As previously stated, the project could go forward without the need for any variance if the swimming pool is placed closer to the Property Owners' house without affecting so many abutting properties. The only potential "predicament" arises from the Property Owners' choice to place the pool area approximately 70 feet from the patio of the Franks and over 200 feet from the exterior patio area behind their home.

9. Whether the spirit and intent of the Code would be observed and substantial justice done by granting the variance(s)?

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**Analysis:** Substantial justice would not be done by granting the variances. Setback requirements allow a certain measure of privacy between neighbors, provide space for light and air circulation, and provide open space for landscaping and recreational use. They also provide distance between neighbors to mitigate noise and lighting.

### B. Unnecessary Hardship Analysis

In order to meet the unnecessary hardship standard, the hardship must be demonstrated by clear and convincing evidence as to ALL of the eight factors contained in Section 1173.04(d) of the Code. The eight considerations include:

1. The property cannot be put to any economically viable use under any of the permitted uses in the zoning district in which it is located; [The 30 foot strip of property can be continued as it has been for decades. The Property Owners recently tore down a long-standing greenhouse which was located in the area where the swimming pool is to be located.]
2. The variance(s) request stems from a condition which is unique to the property at issue and not ordinarily found in the district; [The situation is not unique as the location of the swimming pool and pool house can be on the primary lot behind the residence.]
3. The hardship condition is not created by actions of the applicant; [The "hardship" condition is solely created by the actions of the Property Owners' choice to inconvenience the neighboring property owners rather than themselves.]
4. The applicant purchased the property without knowledge of the zoning restriction; [The Property purchased the subject property in 2006, 10 years after the passing of the applicable zoning code provisions.]
5. The variance(s) sought is the minimum which will afford relief to the applicant; [If the Property Owners build a smaller swimming pool and smaller pool house no variances would be needed.]
6. The granting of the variance(s) will not adversely affect the rights of those property owners to whom notice is required under subsection (c) herein; [It is beyond question that the abutting property owners will be adversely affected.]
7. Granting of the variance(s) will not adversely affect the public health, safety, or general welfare; [As detailed above, the location of the swimming pool below the electrical lines which span the pool from telephone pole to telephone pole and the necessary placement of electrical lighting in close proximity to the swimming pool create a dangerous condition.]

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8. The variance(s) will be consistent with the general spirit and intent of this Code. [The granting of the variances is in direct contradiction with the spirit and intent of this Code. Consistently the setback requirements for a swimming pool and principal structure are either ten feet or more. As to a swimming pool, each of the side yard setback and lighting setback are ten feet. Consistently, under the Code, the Commissioner has the ability to reduce the 10 foot setback with regard to swimming pools only with neighboring property owner consent. Lastly, the Property Owners have a very workable alternative location which they prefer to remain tranquil as opposed to the loss of tranquility which will occur to the neighboring property owners.

Clearly, the requested variances do not satisfy **all** of these requirements by **clear and convincing** evidence.

### **II. Pool House Variance Request**

With regard to the construction of the pool house, it is a significantly superior improvement in comparison to the permitted accessory uses listed in Section 1121.03 of the Code. That list includes accessory uses such as a garage not to exceed 480 square feet in area, an unroofed patio deck not to exceed 300 square feet in area, gazebos and other decorative structures, etc. The pool house plans call for a kitchen, laundry facilities, a covered patio, and a bath. The square footage of the pool house is 746 square feet and the patio is approximately 250 square feet. Clearly, the nature and extent of the pool house is not that of an incidental or complementary structure, such as a garage, gazebo or deck. Nevertheless, the Property Owners seek to place this very substantial improvement only 3 feet off of each of the easterly and westerly neighbors' respective property lines.

Based upon the lack of comparison between the pool house and the above listed accessory uses, the pool house should be mandated to be in compliance with the yard requirements for principal buildings. Per Section 1121.07 of the Code, the lot must maintain a minimum side yard depth of ten feet and a minimum sum of both side yards of twenty five feet from a principal building. The requested variances pertaining to the pool house is a more egregious request considering the stringent setback requirement of a principal building in comparison to a swimming pool. Concerns regarding the collateral noise impact on adjoining properties will be even more significant given the exquisite build out plans of the pool house.

### **III. Additional Concerns**

Section 515.04 provides that no "radio, television, phonograph, drum, musical instrument, sound amplifier ... produces or amplifies sound ... (1) [B]etween the hours of 9:00 p.m. and 8:00 a.m. the following day in such a manner as to create a noise disturbance across a residential real property boundary". Given the chosen location of the swimming pool, is there any doubt that the foregoing Code section will not be violated unless no electronic media is used after 9:00 p.m. The placement of the pool, which can only be done with this Board's granting of the variances, will undoubtedly cause this

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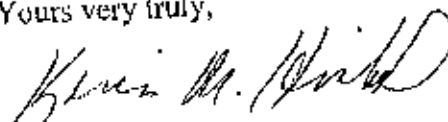
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code section to be violated. The judgment of this Board should cause this avoidable situation from not occurring.

With all due respect to the Property Owners, the placement of the pool house which spans 22.5 feet of the possible 30 feet of width effectively and completely blocks all of the noise and light emanation generated by the pool from the Property Owners' residence. The Property Owners' choice of placement of each of the pool house and the swimming pool allow the Property Owners the convenience and enjoyment of the swimming pool while transferring all of the substantial inconvenience of noise and light emanation onto the neighboring properties. While the Franks sit on their patio they will be approximately 70 feet away from the emanation of noise and light, while the Property Owners back patio would instead be approximately 200 feet away. The Property Owners wish to retain their tranquil exterior area and have the enjoyment of the improvements while transferring the loss of tranquility and the full non-debatable inconveniences to the neighboring Property Owners. They cannot do so without the granting of the variances requested as well as additional variances which have not been requested.

For the preceding reasons, the Property Owners' requested variances should not be granted. The requested variances fail to satisfy both the "practical difficulties" and the required unanimity by clear and convincing evidence of the "unnecessary hardship" tests outlined in Section 1173.04(c) and (d) of the Code. Without being too dramatic, on a warm summer night with the breeze coming off Lake Erie and the Property Owners are relaxing on the patio behind their primary residence as are the Franks on their patio, and one group can have a private tranquil conversation while the other group needs to talk loudly and occasionally repeat themselves over the noise of swimmers and music, if anyone is to hear the incessant shout of "Marco?" "Polo!", it should be the Property Owners rather than the neighboring property owners. On behalf of the Franks, thank you for your consideration

Yours very truly,



Kevin M. Hinkel

cc: Mr. and Mrs. George C. Frank, Jr. (Via Email)



680.12

## ARTICLE 680—SWIMMING POOLS, FOUNTAINS, AND SIMILAR INSTALLATIONS

EXHIBIT 1

Table 680.8 Overhead Conductor Clearances

Clearance Parameters	Insulated Cables, 0-750 Volts to Ground, Supported on and Cabled Together with a Solidly Grounded Bare Messenger or Solidly Grounded Neutral Conductor		All Other Conductors Voltage to Ground			
	m	ft	0 through 15 kV		Over 15 through 50	
			m	ft	m	ft
A. Clearance in any direction to the water level, edge of water surface, base of diving platform, or permanently anchored raft	6.9	22.5	7.5	25	8.0	27
B. Clearance in any direction to the observation stand, tower, or diving platform	4.4	14.5	5.2	17	5.5	18
C. Horizontal limit of clearance measured from inside wall of the pool	This limit shall extend to the outer edge of the structures listed in A and B of this table to less than 3 m (10 ft).					

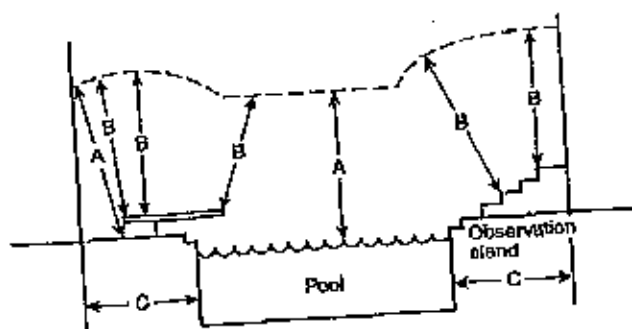


Figure 680.8 Clearances from Pool Structures.

Table 680.10 Minimum Cover Depths

Wiring Method	Minimum Cover	
	mm	in.
Rigid metal conduit	150	6
Intermediate metal conduit	150	6
Nonmetallic raceways listed for direct burial under minimum of 102 mm (4 in.) thick concrete exterior slab and extending not less than 162 mm (6 in.) beyond the underground installation	150	6
Nonmetallic raceways listed for direct burial without concrete encasement	450	
Other approved raceways*	450	

\*Raceways approved for burial only where concrete is required a concrete envelope not less than 50 mm (2 in.)

## ARTICLE 680 SWIMMING POOLS, FOUNTAINS, AND SIMILAR INSTALLATIONS

680.22

**Permanently Installed Pools.**

**General.** Electrical installations at permanently installed pools shall comply with the provisions of Part I and of this article.

**Motors.**

**Wiring Methods.** The wiring to a pool motor shall comply with (A)(1) unless modified for specific circumstances by (A)(3), (A)(4), or (A)(5).

**General.** The branch circuits for pool-associated motors shall be installed in rigid metal conduit, intermediate conduit, rigid polyvinyl chloride conduit, reinforced ceiling resin conduit, or Type MC cable listed for the purpose. Other wiring methods and materials shall be permitted in specific locations or applications as covered in this section. Any wiring method employed shall contain an insulated copper equipment grounding conductor sized in accordance with 250.122 but not smaller than 12 AWG.

**Overhead or Within Buildings.** Where installed on or within buildings, electrical metallic tubing shall be permitted.

**Flexible Connections.** Where necessary to employ flexible connections at or adjacent to the motor, liquidtight flexible nonmetallic conduit or liquidtight flexible nonmetallic conduit with fittings shall be permitted.

**Family Dwellings.** In the interior of dwelling units, the interior of accessory buildings associated with a dwelling unit, any of the wiring methods recognized in Chapter 3 of this Code that comply with the provisions of this article shall be permitted. Where run in a cable assembly, the equipment grounding conductor shall be permitted to be unenclosed, but it shall be enclosed within the outer sheath of the cable assembly.

**Cord-and-Plug Connections.** Pool-associated motors shall be permitted to employ cord-and-plug connections. The cord shall not exceed 900 mm (3 ft) in length. The cord shall include a copper equipment grounding conductor sized in accordance with 250.122 but not smaller than 12 AWG. The cord shall terminate in a grounding-type attachment plug.

**Cable-Insulated Pool Pumps.** A listed cord-and-plug-connected pool pump incorporating an approved system of insulation that provides a means for grounding only the noncurrent-carrying, non-current-carrying metal parts shall be connected to any wiring method recognized in Chapter 3 that is suitable for the location. Where the pump is connected to the equipment grounding conductor of the motor circuit in accordance with the second sentence of 680.26(B)(5)(a), the branch-circuit wiring shall comply with 680.21(A).

**(C) GFCI Protection.** Outlets supplying pool pump motors connected to single-phase, 120-volt through 240-volt branch circuits, rated 15 or 20 amperes, whether by receptacle or by direct connection, shall be provided with ground-fault circuit-interrupter protection for personnel.

**680.22 Lighting, Receptacles, and Equipment.****(A) Receptacles.**

**(1) Circulation and Sanitation System, Location.** Receptacles that provide power for water-pump motors or for other loads directly related to the circulation and sanitation system shall be located at least 3.0 m (10 ft) from the inside walls of the pool, or not less than 1.83 m (6 ft) from the inside walls of the pool if they meet all of the following conditions:

- (1) Consist of single receptacles
- (2) Employ a locking configuration
- (3) Are of the grounding type
- (4) Have GFCI protection

**(2) Other Receptacles, Location.** Other receptacles shall be not less than 1.83 m (6 ft) from the inside walls of a pool.

**(3) Dwelling Unit(s).** Where a permanently installed pool is installed at a dwelling unit(s), no fewer than one 125-volt, 15- or 20-ampere receptacle on a general-purpose branch circuit shall be located not less than 1.83 m (6 ft) from, and not more than 6.0 m (20 ft) from, the inside wall of the pool. This receptacle shall be located not more than 2.0 m (6 ft 6 in.) above the floor, platform, or grade level serving the pool.

**(4) GFCI Protection.** All 15- and 20-ampere, single-phase, 125-volt receptacles located within 6.0 m (20 ft) of the inside walls of a pool shall be protected by a ground-fault circuit interrupter.

**(5) Measurements.** In determining the dimensions in this section addressing receptacle spacings, the distance to be measured shall be the shortest path the supply cord of an appliance connected to the receptacle would follow without piercing a floor, wall, ceiling, doorway with hinged or sliding door, window opening, or other effective permanent barrier.

**(B) Luminaires, Lighting Outlets, and Ceiling-Suspended (Paddle) Fans.**

**(1) New Outdoor Installation Clearances.** In outdoor pool areas, luminaires, lighting outlets, and ceiling-suspended (paddle) fans installed above the pool or the area extending 1.5 m (5 ft) horizontally from the inside walls of the pool shall be installed at a height not less than 3.7 m (12 ft) above the maximum water level of the pool.

**(2) Indoor Clearances.** For installations in indoor pool areas, the clearances shall be the same as for outdoor areas unless modified as provided in this paragraph. If the branch circuit supplying the equipment is protected by a ground-fault circuit

Grace Ann Frank  
1101 W. Forest Road  
Lakewood, OH. 44107  
[graceannfrank@hotmail.com](mailto:graceannfrank@hotmail.com)

April 19, 2012

Board of Zoning Appeals  
Lakewood City Hall  
12650 Detroit Avenue  
Lakewood, Ohio 44107

*re: application for variance at 17873 Lake Road, filed 4/3/12*

Members Breiner, Matousek, Monahan, Nagy, and Krewson:

Please accept this letter as my written objections to the proposed variance to setback requirements requested by Joe and Becky Starck at 17873 Lake Road for the installation of an in-ground swimming pool and separate pool house on the premises.

We moved to Clifton Park when I was 7 years old and have now lived in my current home at 1101 W. Forest Road for more than 40 years.

I do not undertake to voice my objections to the proposed variance without some sense of offending a neighbor. The requested variance would place a swimming pool and a rather substantial pool house just 3 feet from my property. The Starcks have 5 young children who would likely be using the swimming pool all summer long. The size and scope of the pool house (a large patio, kitchen, and bathrooms) suggests that they will be using the pool

and pool house as a home-away-from-home during the summer months.

My husband and I enjoy entertaining family and friends outdoors on our patio in the summer. We also eat most of our meals on our screened porch and fear that a swimming pool so close to our property line would shatter the quiet use and enjoyment of our porch and backyard.

We have no wish to limit the recreational opportunities for these children, but are concerned that the placement of the swimming pool and pool house just feet from our property will subject us to constant noise from those using these facilities.

George and I take pride in and spend a great deal of time maintaining our backyard and gardens. Moreover, like many others who live in older Lakewood homes, we enjoy opening our windows for summer lake breezes; yet fear that even inside our house we will be subjected to constant noise. We have 15 grandchildren of our own and know from experience that children and swimming pools are a recipe for noise.

I also wish to point out that the variance itself is unnecessary as the submitted plans suggest that the Starcks have sufficient property on which to locate a pool without having to use this location. Indeed, the irony of the proposed variance is that the pool which is to be located literally in my backyard is so far from the Starck house that they and their neighbors on either side will not be subjected to the noise and disturbance that I am being

asked to tolerate. Moving the pool closer to their house would rightfully ask them to bear the brunt of conditions that they now expect neighbors like us to tolerate. It is my understanding that the party seeking a variance must show that they will have "practical difficulties" in the use of property if not provided with the variance. Given that the Starcks have other space on which to locate their pool, it is difficult to see how they can meet the burden of showing why they are entitled to a variance when other alternatives exist.

The Ohio Supreme Court stated in 1915, that the real purpose of restrictions on homes in Clifton Park "was to guarantee to the purchasers a quiet residence locality[.]"

I was saddened that I wasn't given the courtesy of learning beforehand what the Starcks had planned for the land, particularly when it must have been obvious to them that the location of their proposed swimming pool and pool house would have such a huge impact on me. But courtesy aside, the proposed variance is not needed when viable alternatives for the pool location exist that would guarantee the neighbors the quiet use and enjoyment of their property.

I respectfully ask the members of the Board of Zoning Appeals to uphold the fundamental character of Clifton Park and deny the requested variance.

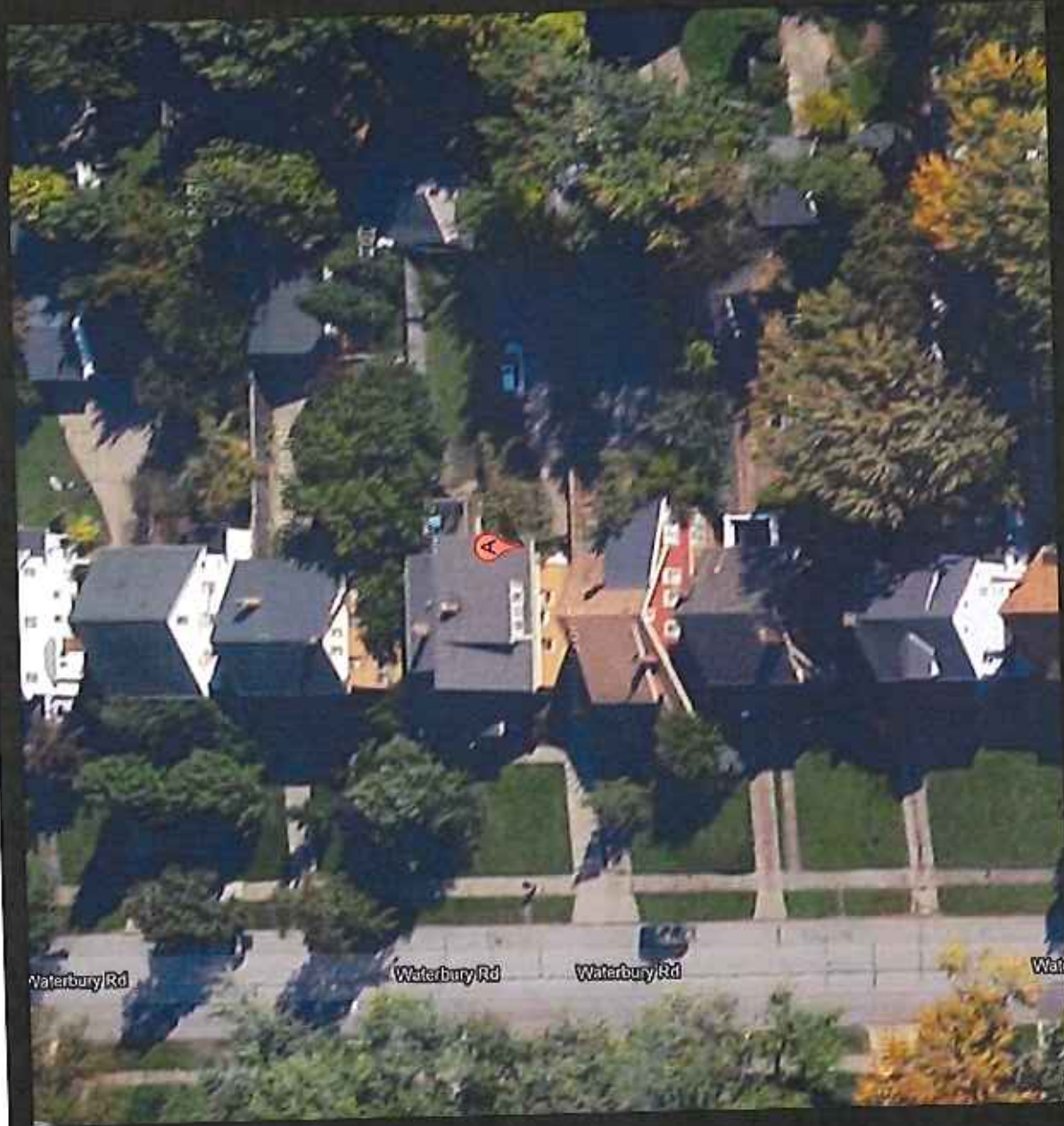


# Board of Zoning Appeals

April 2012







## 1507 Waterbury Road

BZA April 2012





BZA April 2012

1507 Waterbury Road





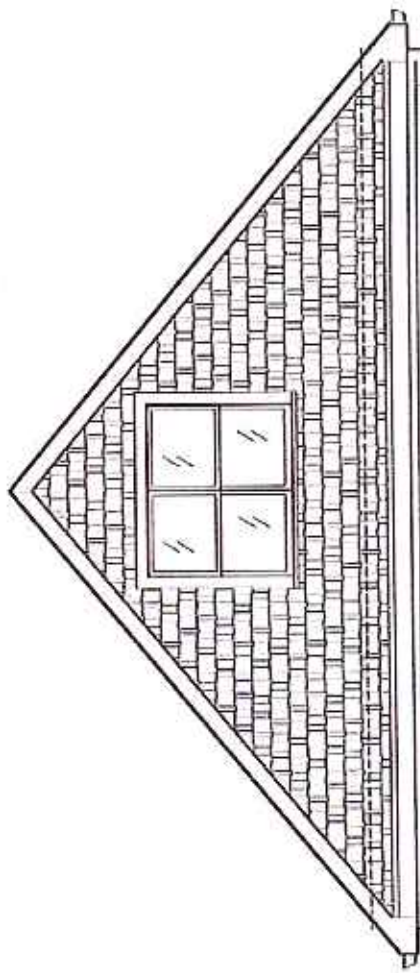
1507 Waterbury Road

BZA, April 2012

TOP OF ROOF  
ELEV. 19'-6"

TOP PLATE  
ELEV. 9'-0"

TOP OF SLAB  
ELEV. 0'-0"



FRONT ELEVATION

1/4" = 1'-0"



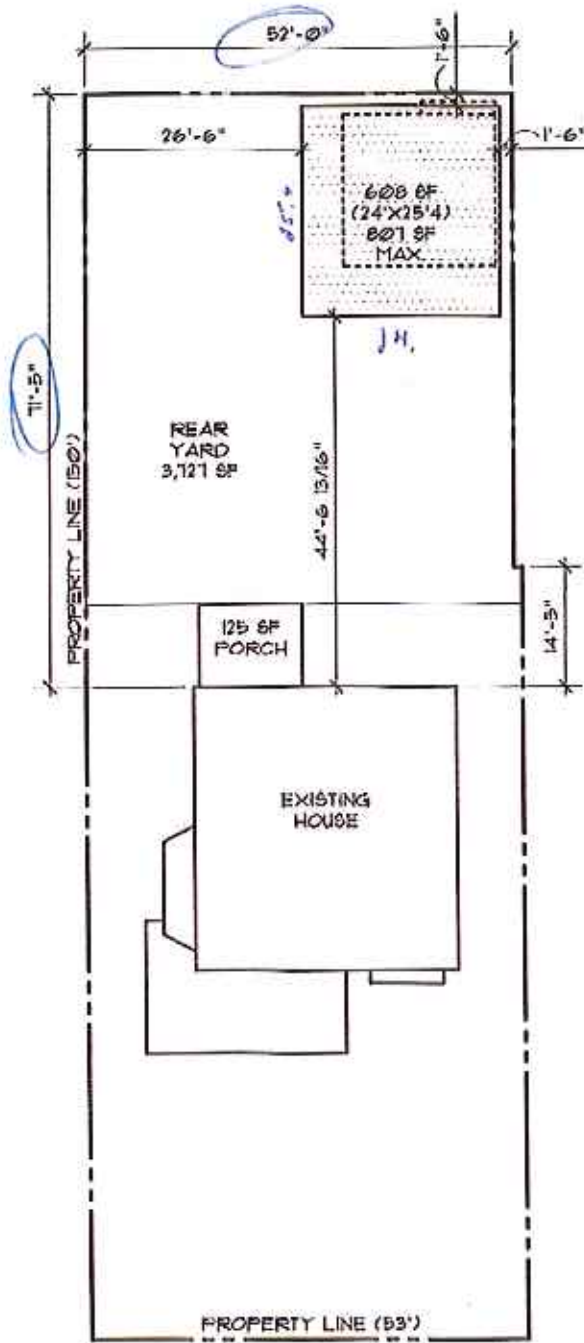
Handwritten notes in blue ink: '2'x4' MIN. TYP.' and '50'x100' TYP.' with arrows pointing to the roof and wall areas.

13

1507 Waterbury Road



1507. Waterbury



5% = 898.25

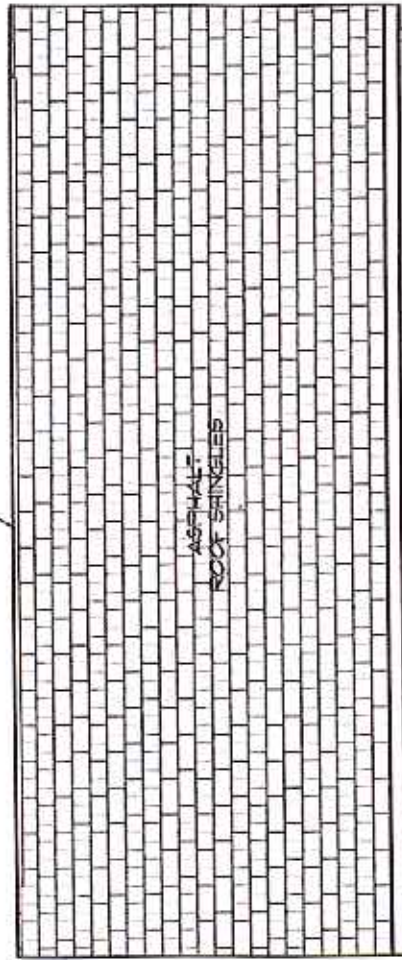
14

1507 Waterbury Road

BZA April 2012



CONTINUOUS CONCEALED  
RIDGE VENT



ASPHALT  
ROOF SHINGLES

4" VINYL  
LAP SIDING



RIGHT ELEVATION

1/4" = 1'-0"



16

1507 Waterbury Road

BZA April 2012



CONTINUOUS CONCEALED  
RIDGE VENT

ASPHALT  
ROOF SHINGLES

4 VINYL  
LAP SIDING

36X84  
DOOR

LEFT ELEVATION

1/4" = 1'-0"



17

1507 Waterbury Road

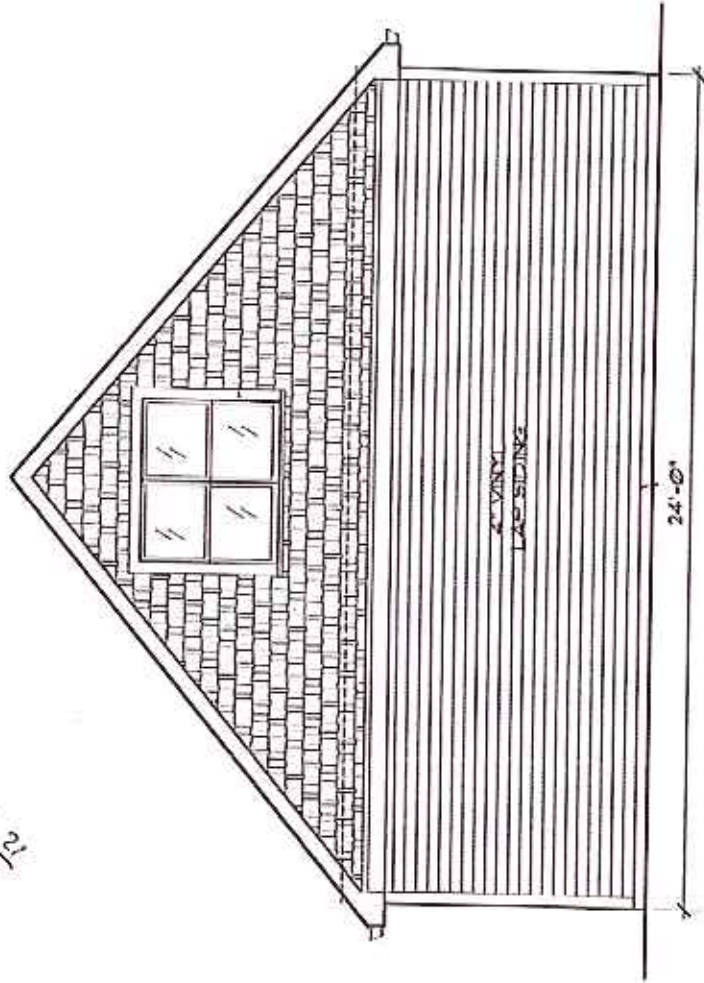
BZA April 2012

10/12 3/4  
10/12

TOP OF ROOF  
ELEV. 19'-6"

TOP PLATE  
ELEV. 9'-0"

TOP OF SLAB  
ELEV. 0'-0"



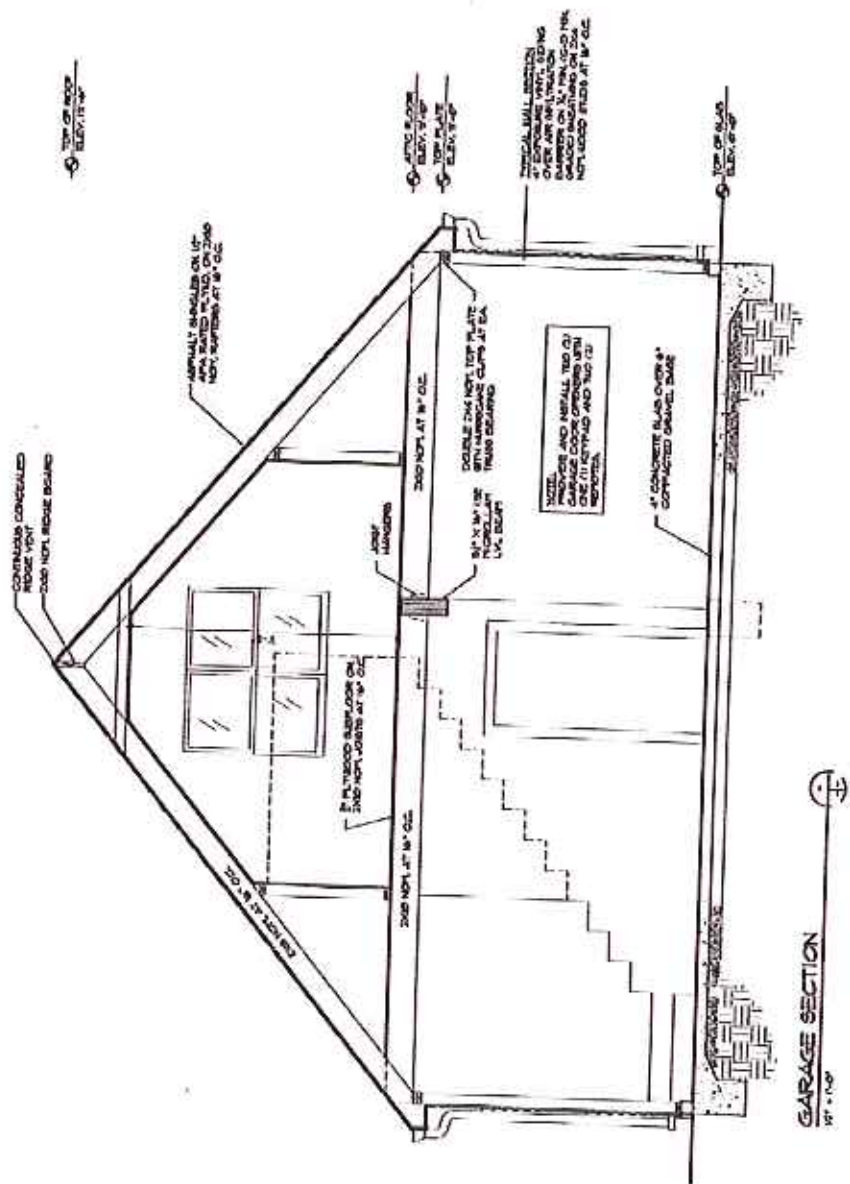
REAR ELEVATION

1/4" x 11'-0"



1507 Waterbury Road

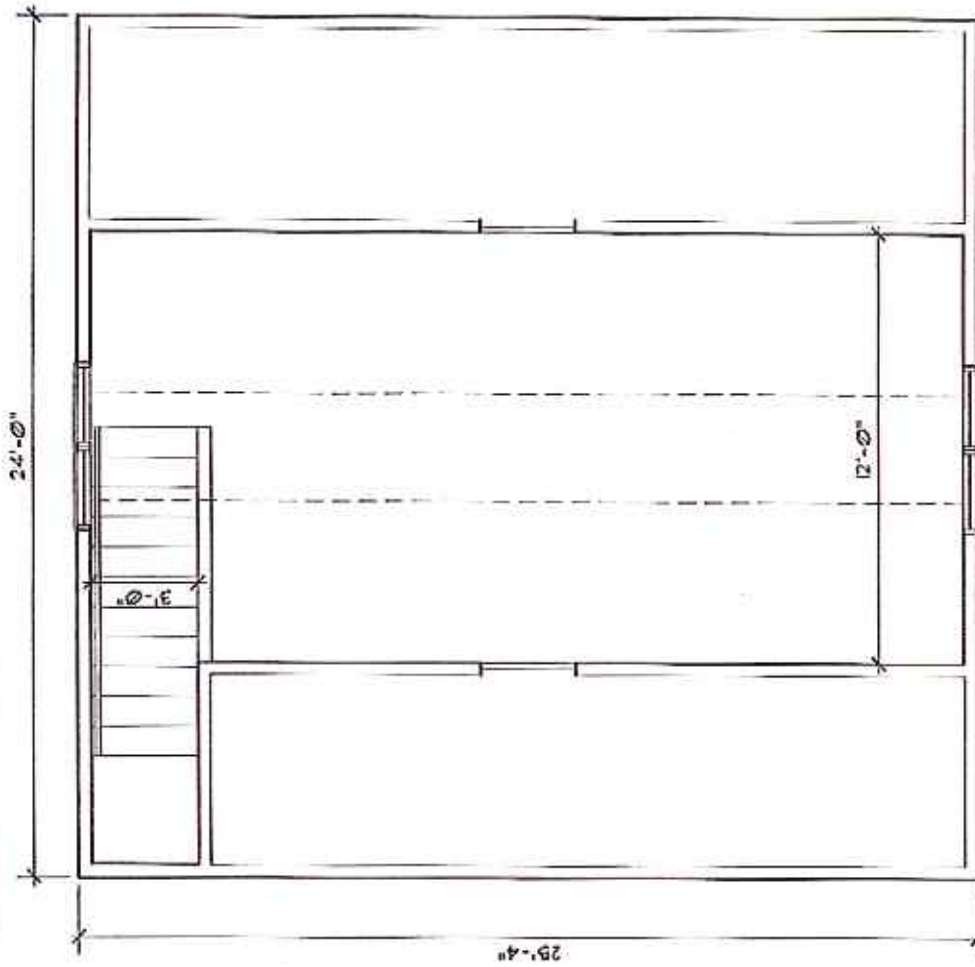
BZA April 2012



19

# 1507 Waterbury Road





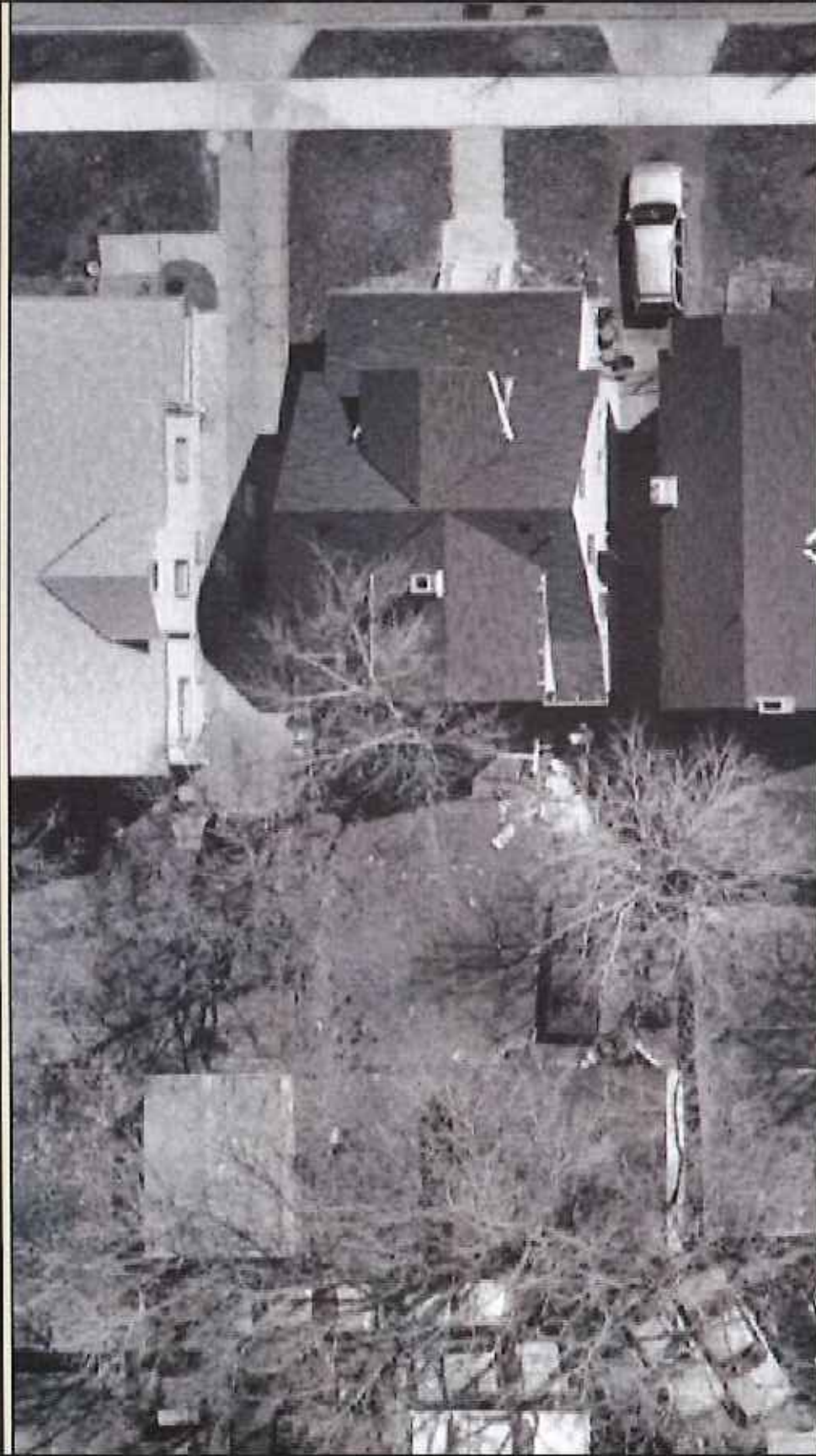
ATTIC PLAN



20

1507 Waterbury Road

BZA April 2012



1370 Beach Avenue

BZA April 2012





## 1370 Beach Avenue

BZA April 2012



1370 Beach Avenue

BZA April 2012





## 1370 Beach Avenue

BZA April 2012





BZA April 2012

18093 Clifton Road





EZA April 2012

18093 Clifton Road





BZA April 2012

18093 Clifton Road





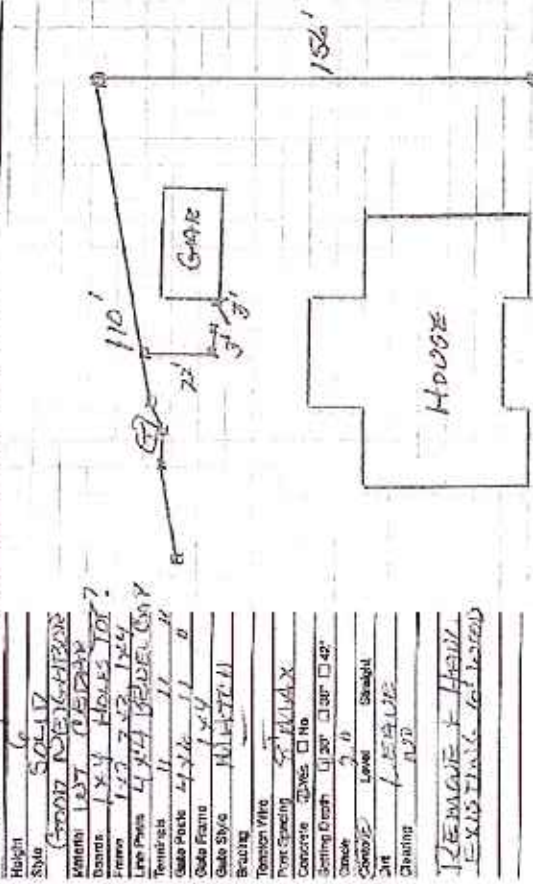
18093 Clifton Road

BZA April 2012

# 18093 Clifton Road

PROPOSAL TO: MATT KIRBY  
 ADDRESS: 18093 CLIFTON RD., LAWRENCE  
 INSTALLATION SITE: TWP 44107  
 DIRECTIONS: E SIDE N OF CLIFTON BLVD

Height: 6  
 Style: SOLID  
 Material: STEEL  
 Boards: 1x4 HOLES TOP  
 Fencing: 1x4 HOLES TOP  
 Line Posts: 4x4 BEVEL TOP  
 Terminal: 11  
 Gate Posts: 4x4  
 Gate Style: 1x4  
 Bracing: HORIZONTAL  
 Tension Wire: 5  
 Post Spacing: 5' MAX  
 Concrete: Yes ☐ No ☐  
 Bottom Depth: 11" 30" ☐ 30" ☐ 40"  
 Concrete: 2 ☐ 6  
 Gate: 1x4  
 Chaining: N/D



REMARKS: REMOVE & REBUILD EXISTING GATE

Material: STEEL  
 Labor: 1400.00  
 Taxes: 100.00  
 TOTAL: \$1500.00  
 DEPOSIT: 0.00  
 BALANCE: 1500.00  
 TERMS: DUE UPON COMPLETION

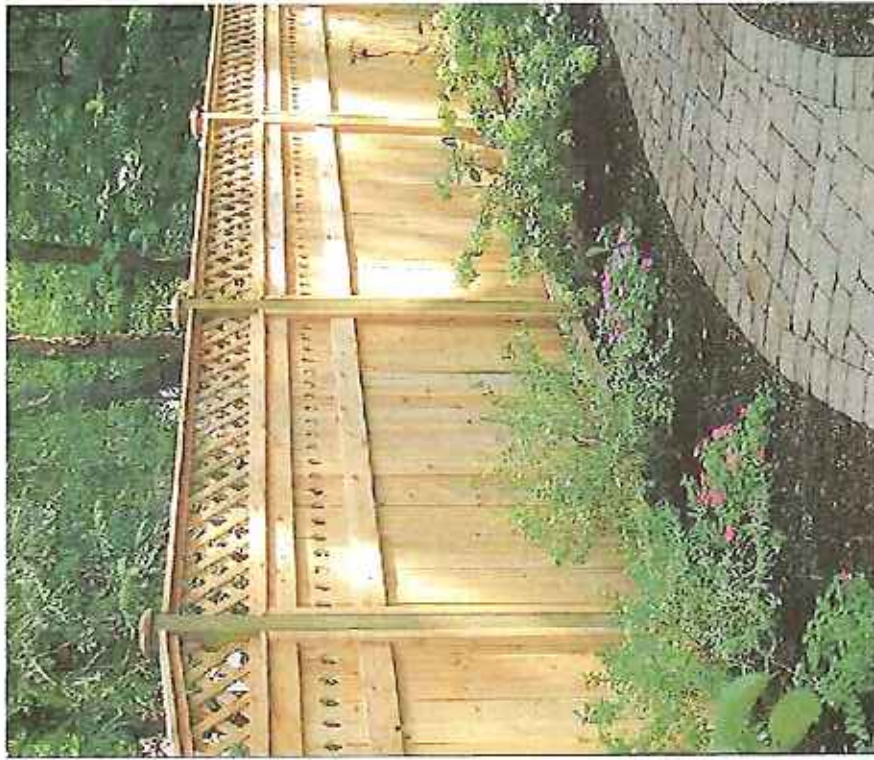
DATE: 084  
 ESTIMATOR: Mike W. Weger

PLEASE PRINT AND SIGN

Customer is responsible for the location of all property lines, underground utilities and other, and miscellaneous underground utilities. The customer agrees to indemnify and hold the contractor harmless for any and all damages, claims, losses, and expenses, including reasonable attorney's fees, incurred by the contractor as a result of the customer's negligence or failure to provide accurate information. The customer agrees to indemnify and hold the contractor harmless for any and all damages, claims, losses, and expenses, including reasonable attorney's fees, incurred by the customer as a result of the contractor's negligence or failure to provide accurate information. The customer agrees to indemnify and hold the contractor harmless for any and all damages, claims, losses, and expenses, including reasonable attorney's fees, incurred by the customer as a result of the contractor's negligence or failure to provide accurate information.

9





Search

Good Neighbor® Privacy Wood Fence With Diagonal Lattice and a hula garden arch

All of our Good Neighbor® privacy wood fence designs are framed in to create an identical look on both sides. They are hand crafted and custom built on site. All of our fences

10

18093 Clifton Road

BZA April 2012

18093 CLIFTON RD

EASTING FENCE - SOUTH SIDE



11

18093 Clifton Road

BZA April 2012



18093 CLIFTON RD EXISTING FENCE  
EAST SIDE PROPERTY LINE



SOUTH SIDE PROPERTY LINE

12

## 18093 Clifton Road





18093 CLIFTON RD

EXISTING FENCE

BEHIND GARAGE - EAST

PROPERTY LINE



2060 Lakeland Avenue

BZA April 2012





BZA April 2012

2060 Lakeland Avenue





2060 Lakeland Avenue

BZA April 2012





## 1485 Clarence Avenue

EZA April 2012





ABR April 2012

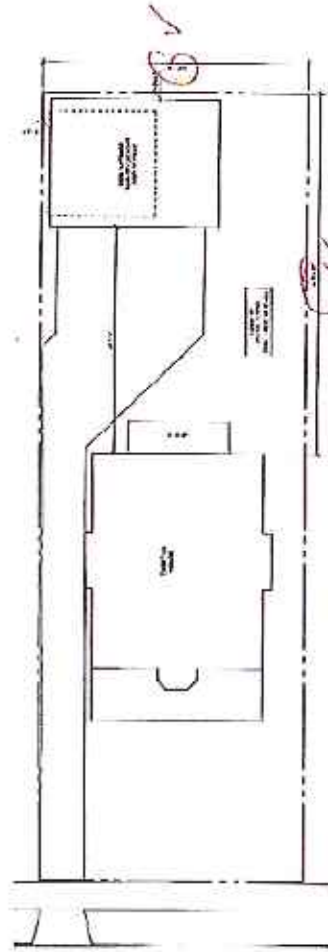
1485 Clarence Avenue





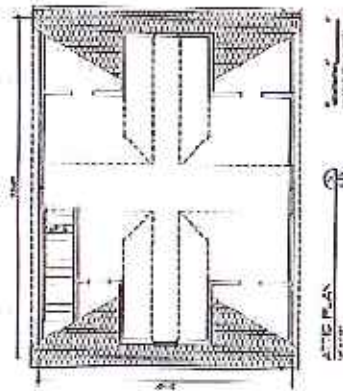
1485 Clarence Avenue

FER April 2012

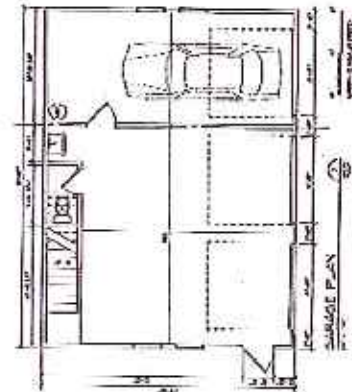


ARCHITECTURAL SITE PLAN

3-21-2014 VARIANCE REQUESTED  
for 15' height, 20' front set back  
for 9'1'-9'5' 11/11/2014



ATTIC PLAN



GARAGE PLAN

3-21-2014 VARIANCE REQUESTED  
for 15' height, 20' front set back  
for 9'1'-9'5' 11/11/2014

DATE: 11/11/2014  
BY: [Signature]  
PROJECT: 1485 CLARENCE AVENUE

REAR LOT = 3390  
85% = 2897 #  
figure size = 768 #  
3-21-2014 NO VARIANCE  
LOT CHANGE REQUESTED



**BEEGAN**  
ARCHITECTURAL DESIGN

1485 CLARENCE AVENUE  
ANN ARBOR MI 48102  
734.766.0238

PROJECT NO. 1485  
1485 CLARENCE AVENUE  
ANN ARBOR MI 48102  
FLOOR AND SITE PLANS

**A1**

# 1485 Clarence Avenue





1646 Lewis Drive

BZA April 2012

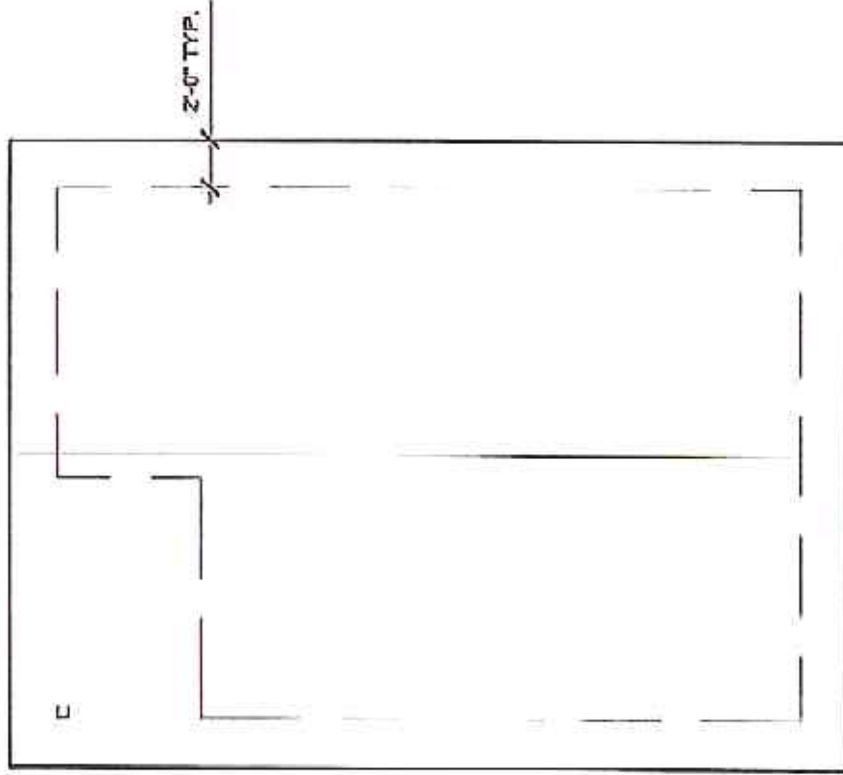




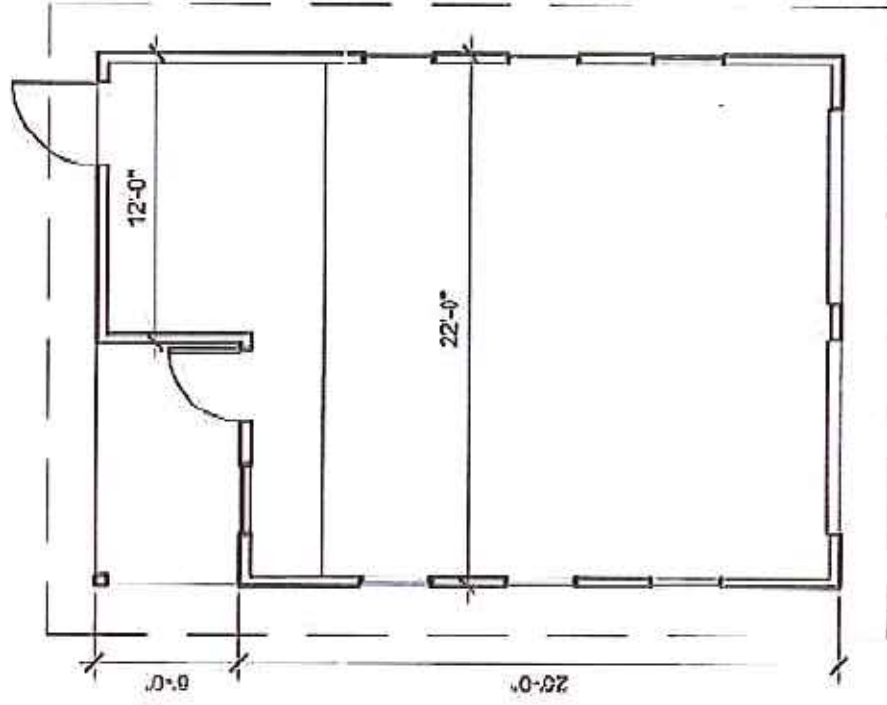
1646 Lewis Drive

BZA April 2012





THE SS RESIDENCE  
GARAGE ROOF PLAN  
SCALE: 3/4" = 1'-0"

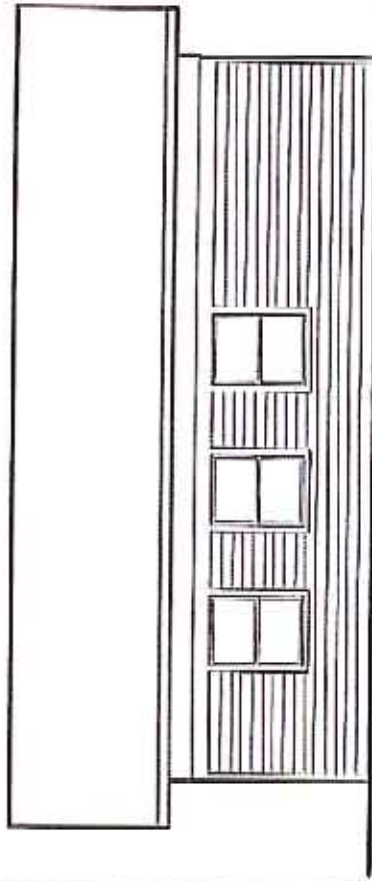


THE SS RESIDENCE  
GARAGE PLAN  
SCALE: 3/4" = 1'-0"

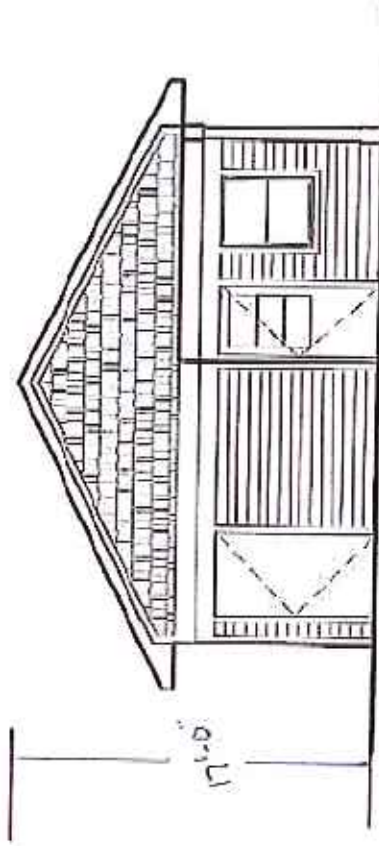
BZA April 2012

1646 Lewis Drive

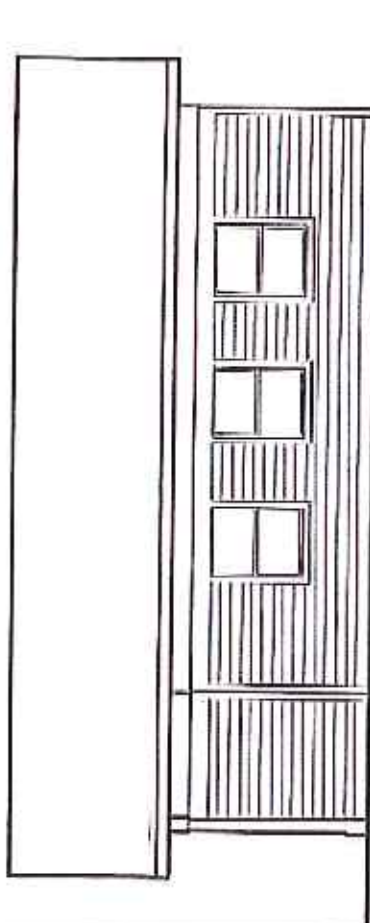




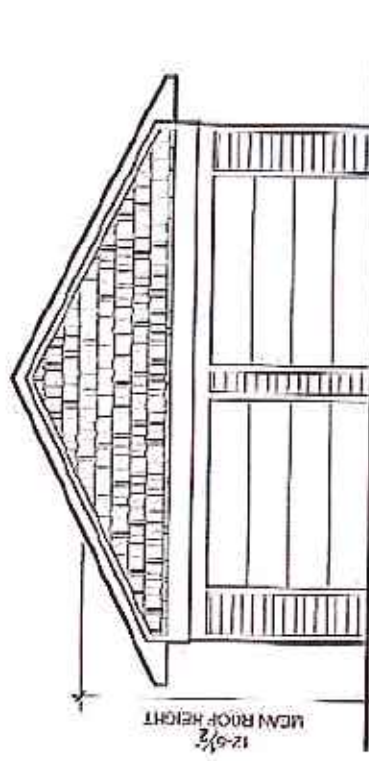
THE SG RESIDENCE  
NORTH GARAGE ELEVATION  
SCALE: 3/16" = 1'-0"  
A-0001



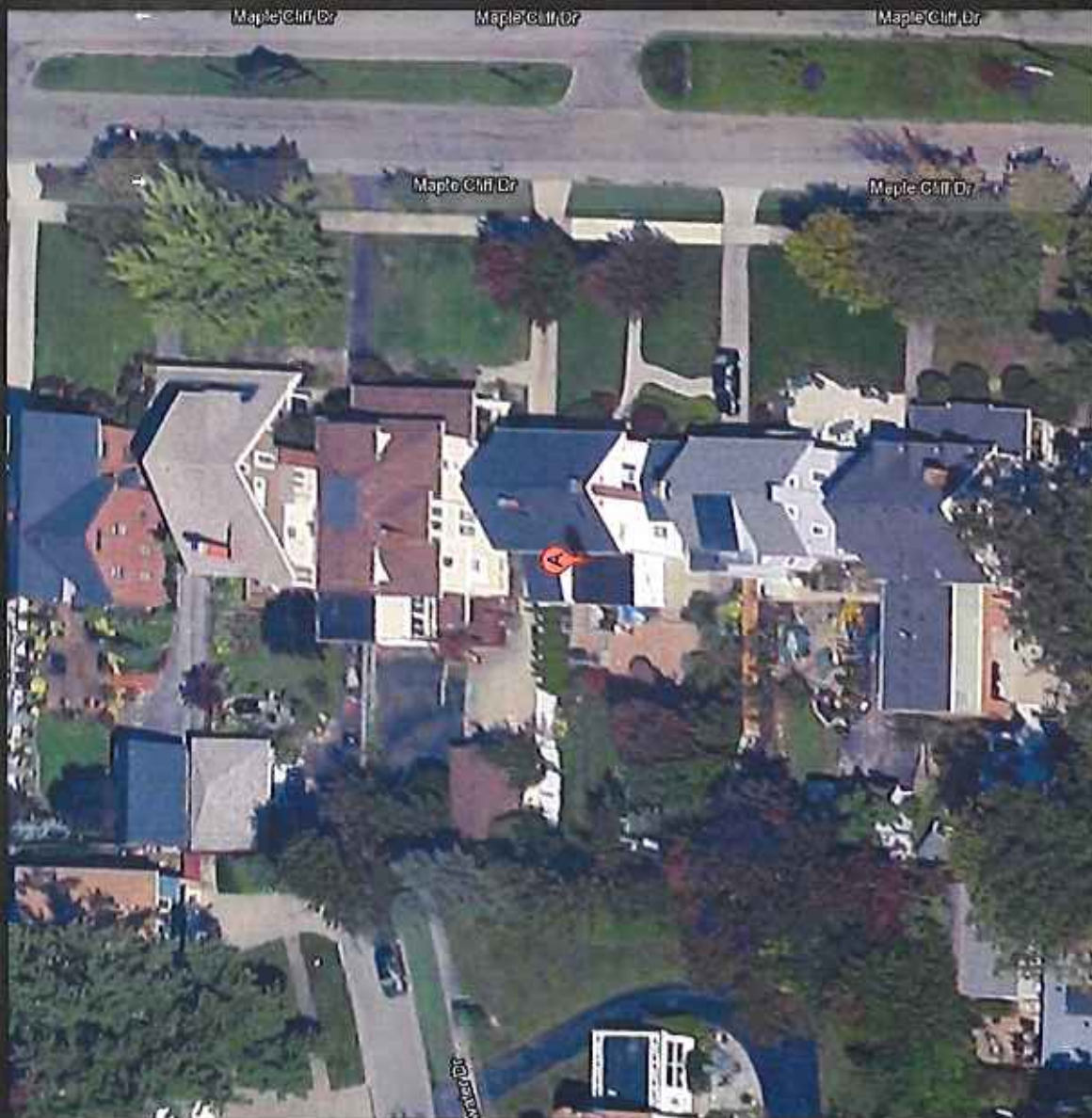
THE SG RESIDENCE  
WEST GARAGE ELEVATION  
SCALE: 3/16" = 1'-0"  
A-0001



THE SG RESIDENCE  
SOUTH GARAGE ELEVATION  
SCALE: 3/16" = 1'-0"  
A-0001



THE SG RESIDENCE  
EAST GARAGE ELEVATION  
SCALE: 3/16" = 1'-0"  
A-0001



## 10888 Maple Cliff Drive

— BZA April 2012





1088 Maple Cliff Drive

BZA April 2012



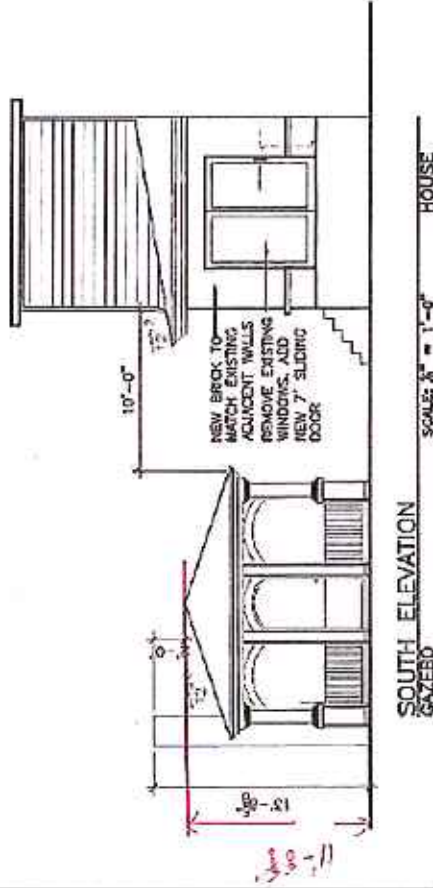


BZA April 2012

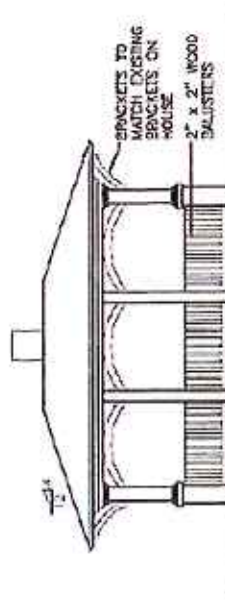
1088 Maple Cliff Drive







4-3-2014 gazebo is 11'-8 3/8" x no. 6000000000  
 Equipped per 9-45" 111.05" (4) 111"



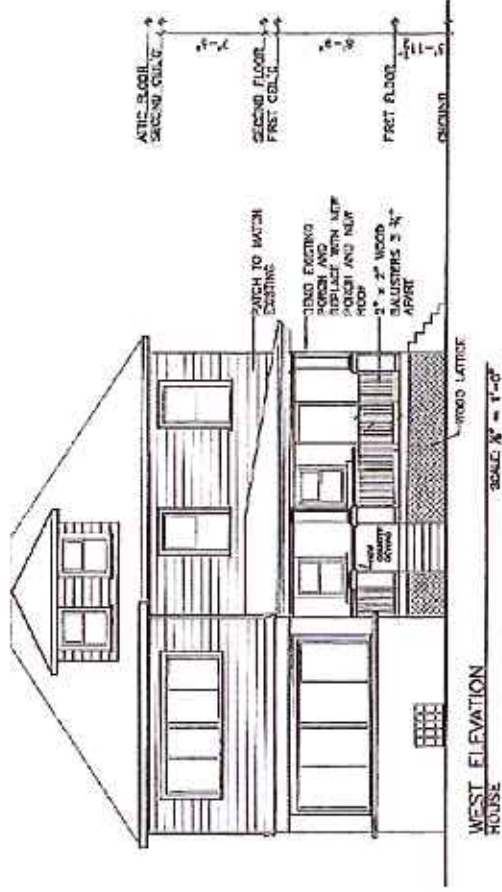
EAST ELEVATION  
 GAZEBO SCALE: 1/8" = 1'-0"

THE SUTTON RESIDENCE  
 1088 MAPLE CLIFF DRIVE  
 LAKEWOOD, OH 44107

22

# 1088 Maple Cliff Drive





THE SUTTON RESIDENCE  
1088 MAPLE CLIFF DRIVE  
LAKEWOOD, OH 44107

28

## 1088 Maple Cliff Drive





## 1526 Parkwood Road

BZA April 2012





BZA April 2012

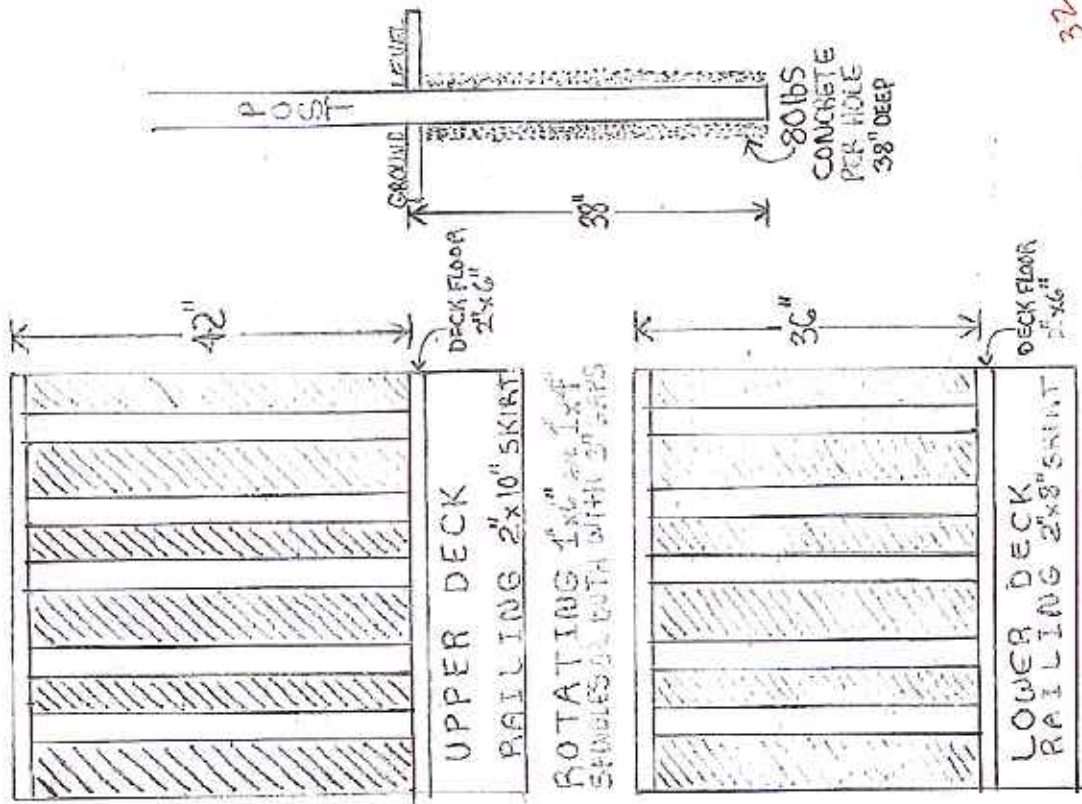
1526 Parkwood Road





BZA April 2012

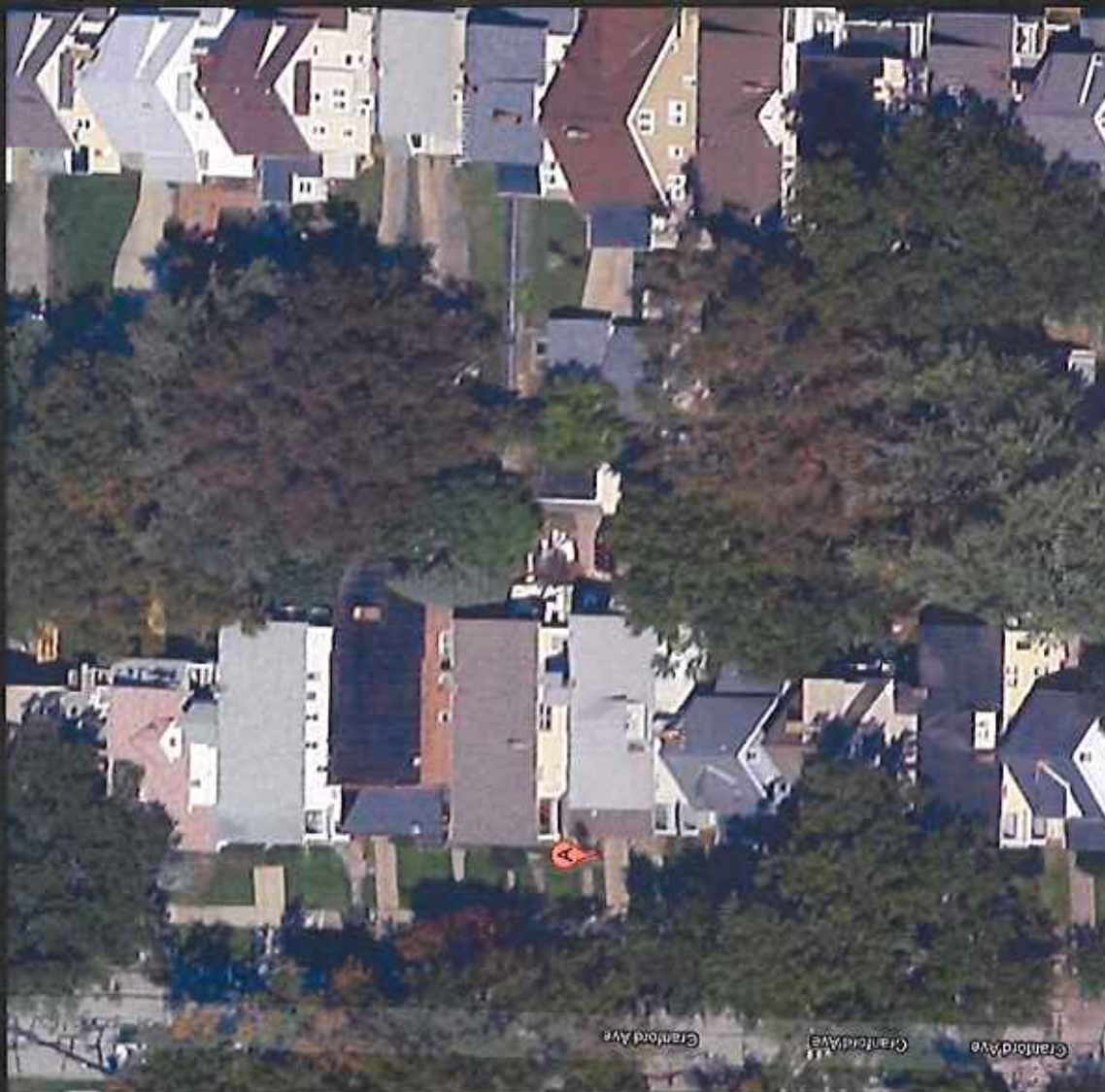
1526 Parkwood Road







## BZA April 2012



## 1213-15 Cranford Avenue

BZA April 2012





1213-15 Cranford Avenue

BZA April 2012

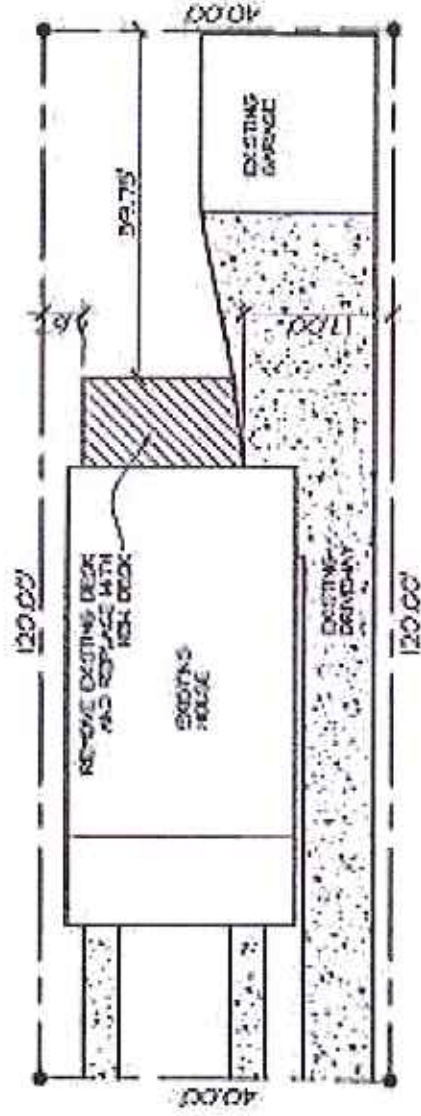




1213-15 Cranford Avenue

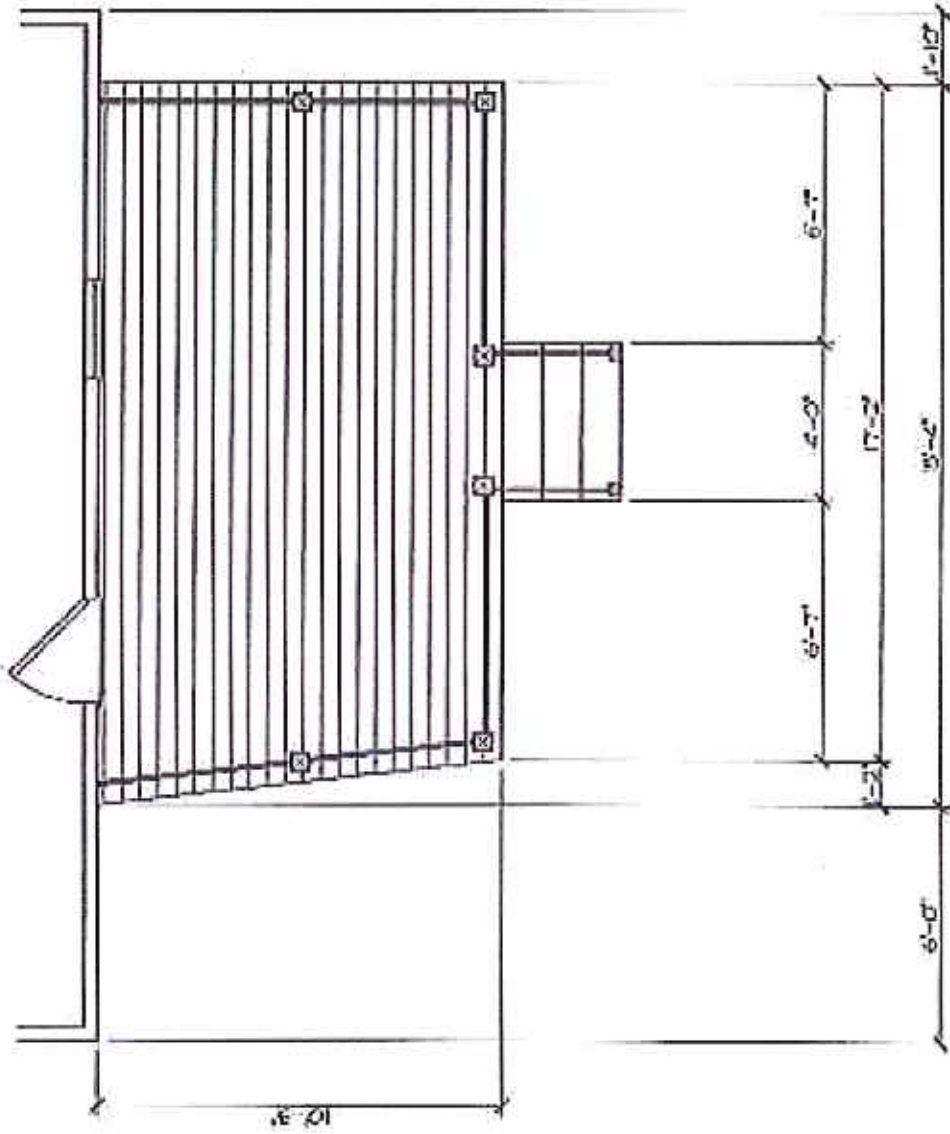
BZA April 2012

CRANFORD AVE. 60'



1213-15 Cranford Avenue

BZA April 2012



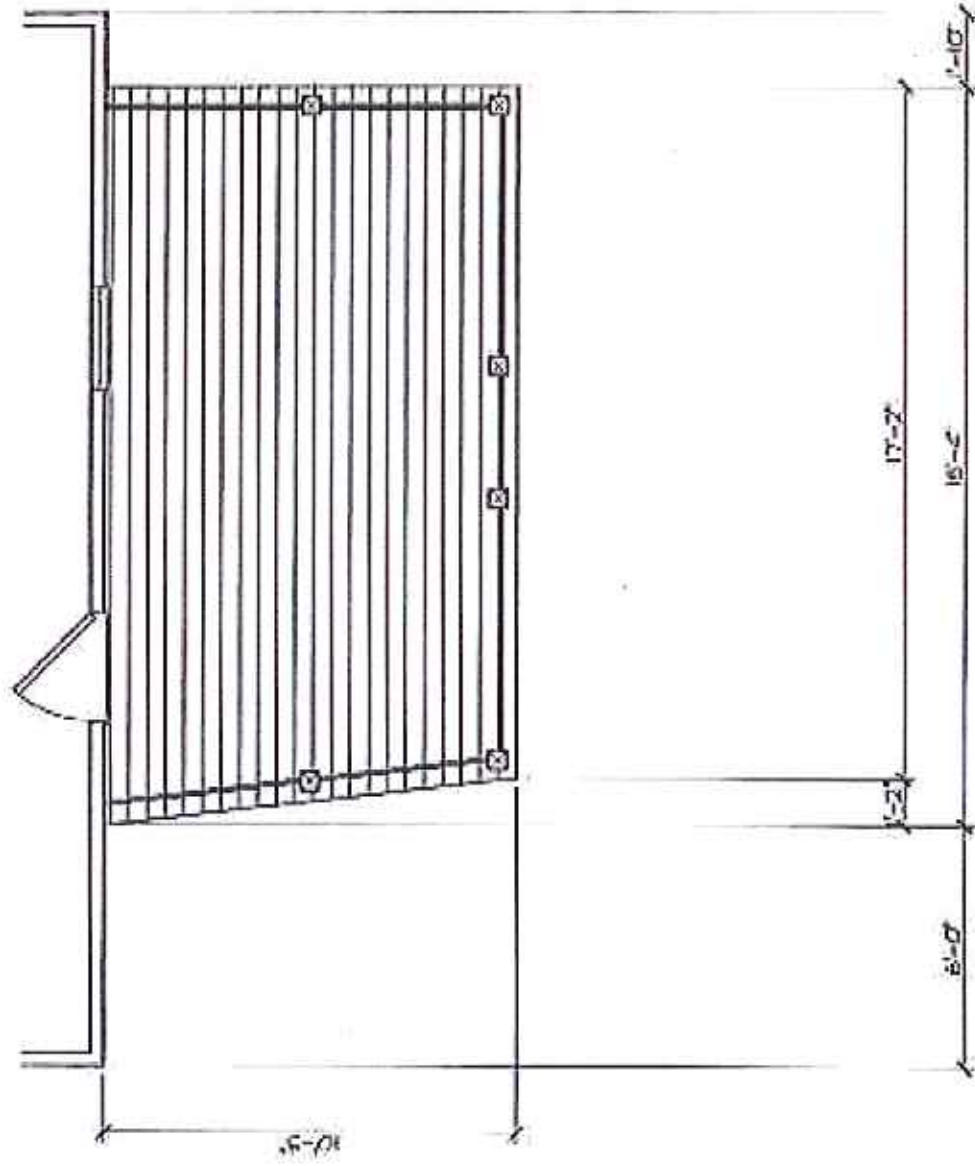
FIRST FLOOR DECK PLAN

SCALE 1/8"=1'-0"

1213-15 Cranford Avenue

EZA April 2012





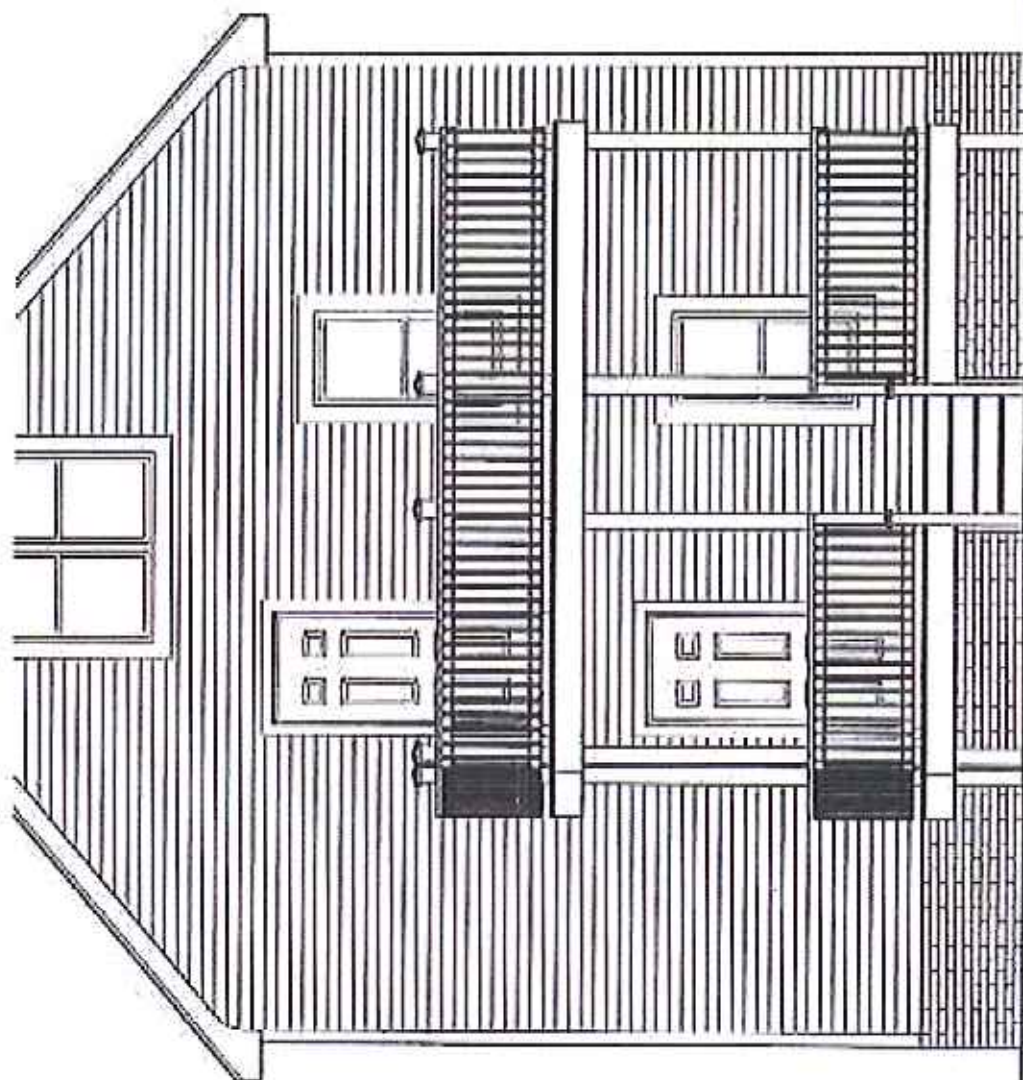
SECOND FLOOR DECK PLAN

SCALE 1/2"=1'-0"

1213-15 Cranford Avenue



## BZA April 2012



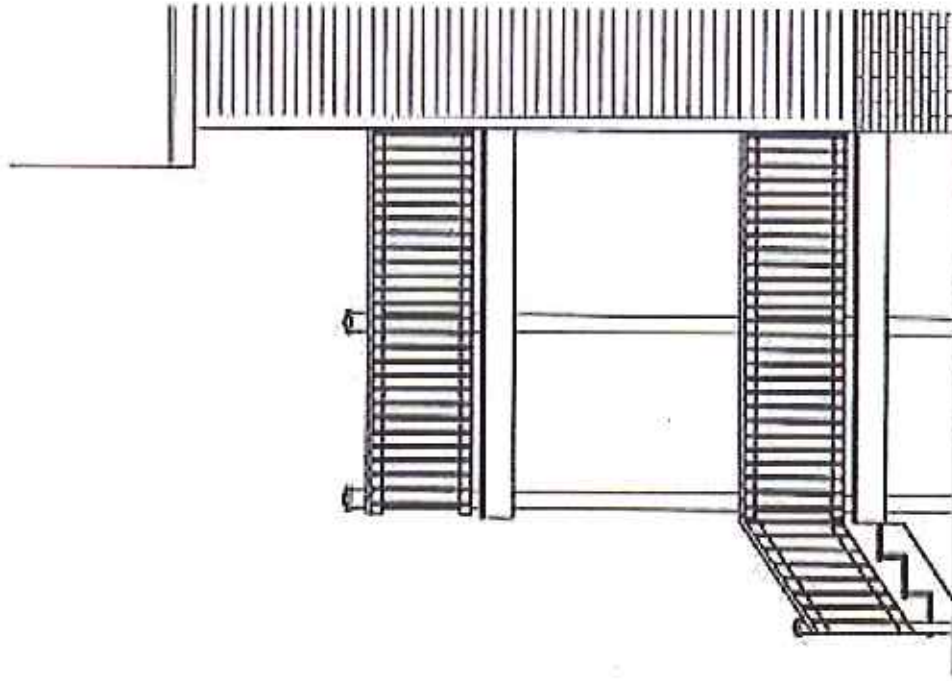
EAST ELEVATION

SCALE 1/4"=1'-0"

1213-15 Cranford Avenue

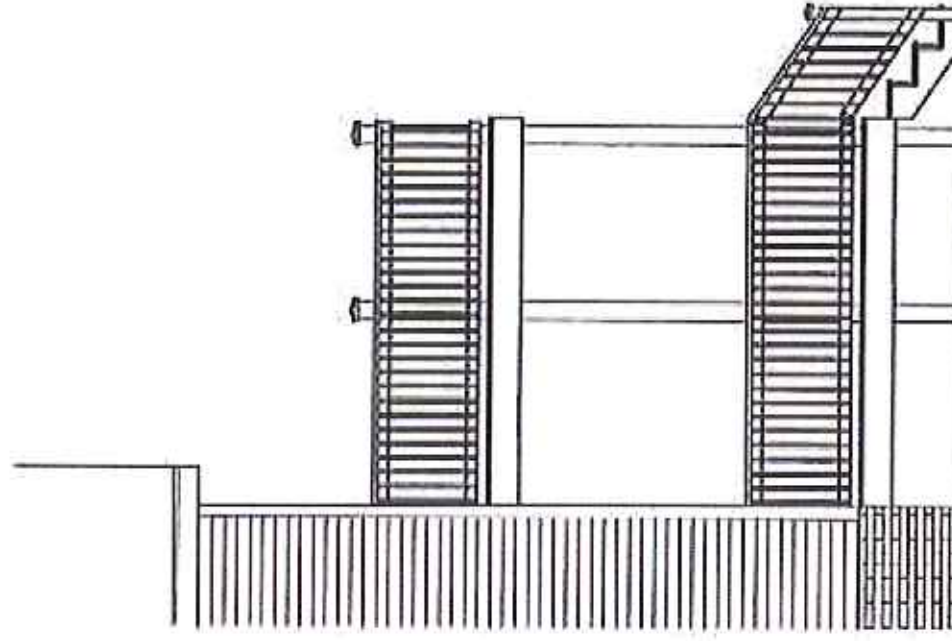
BZA April 2012





NORTH ELEVATION

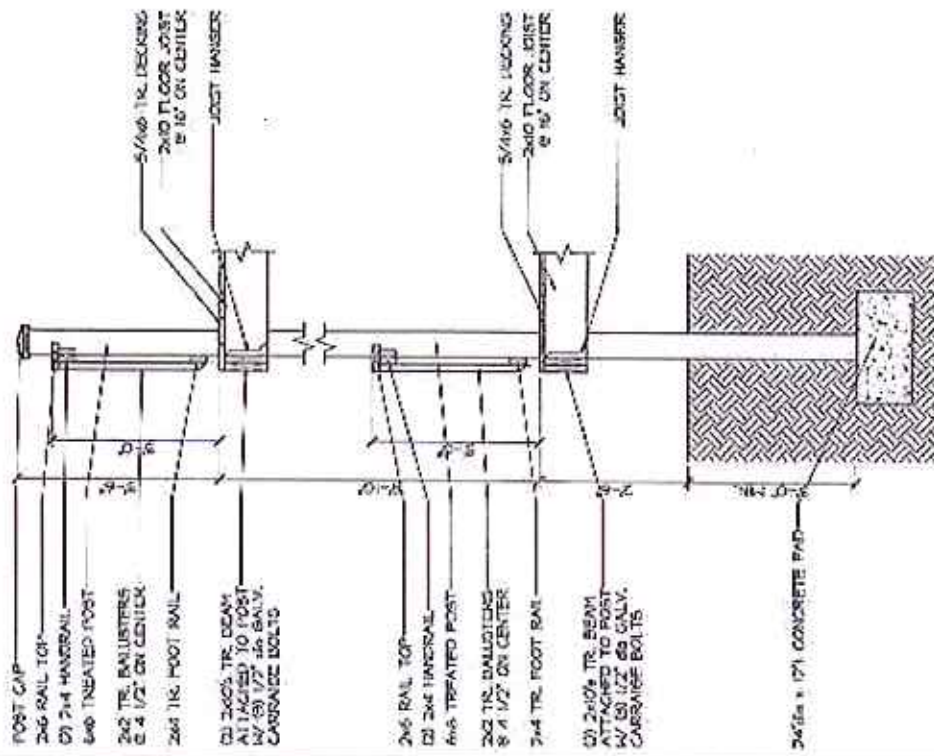
SCALE 1/4"=1'-0"



SOUTH ELEVATION

SCALE 1/4"=1'-0"

# 1213-15 Cranford Avenue



TYPICAL SECTION

SCALE 1/2"=1'-0"

1213-15 Cranford Avenue

BZA April 2012





## 17873 Lake Road

BZA April 2012





17873 Lake Road

BZA April 2012





17873 Lake Road

BZA April 2012

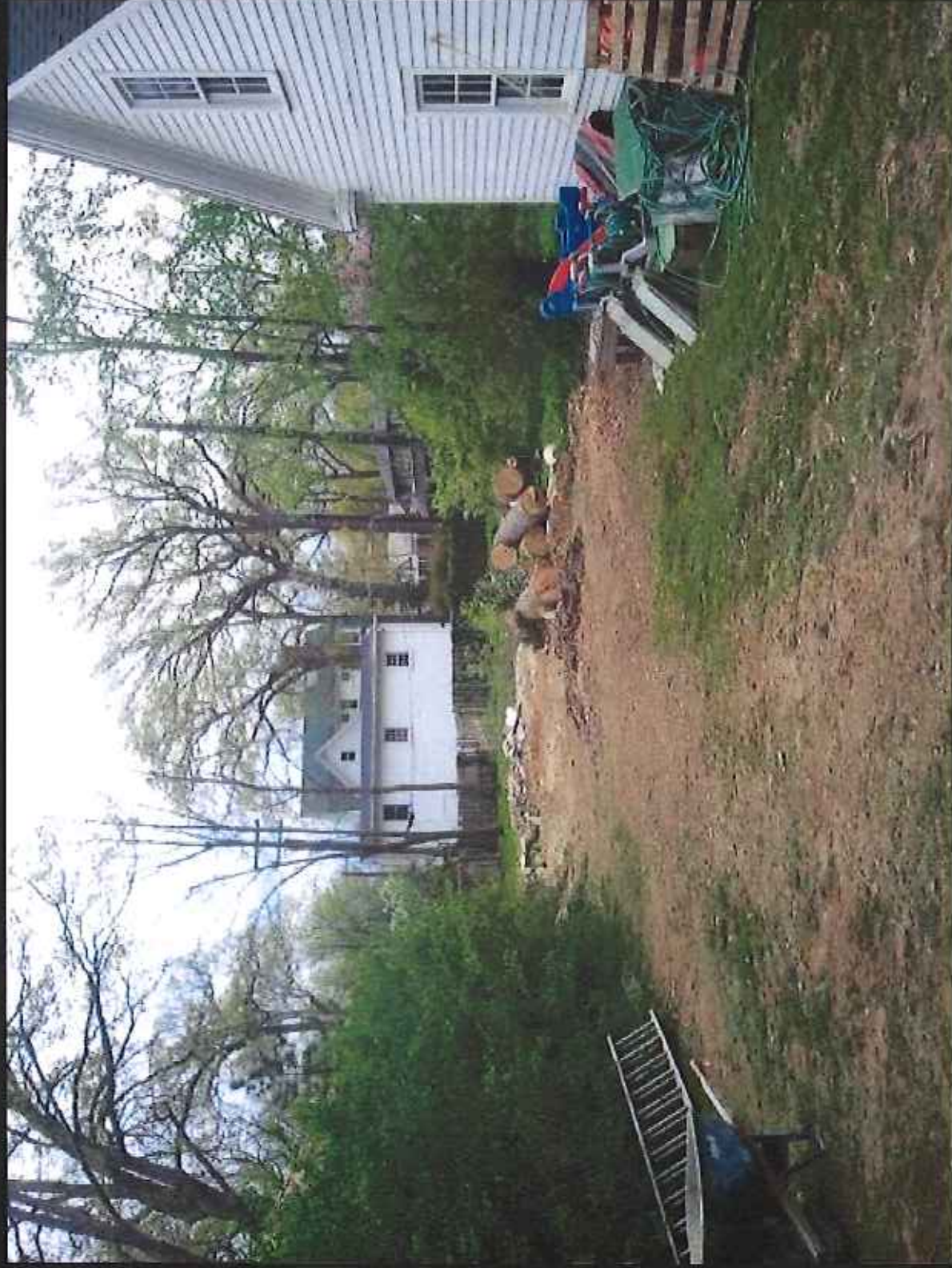




EZA April 2012

17873 Lake Road





17873 Lake Road

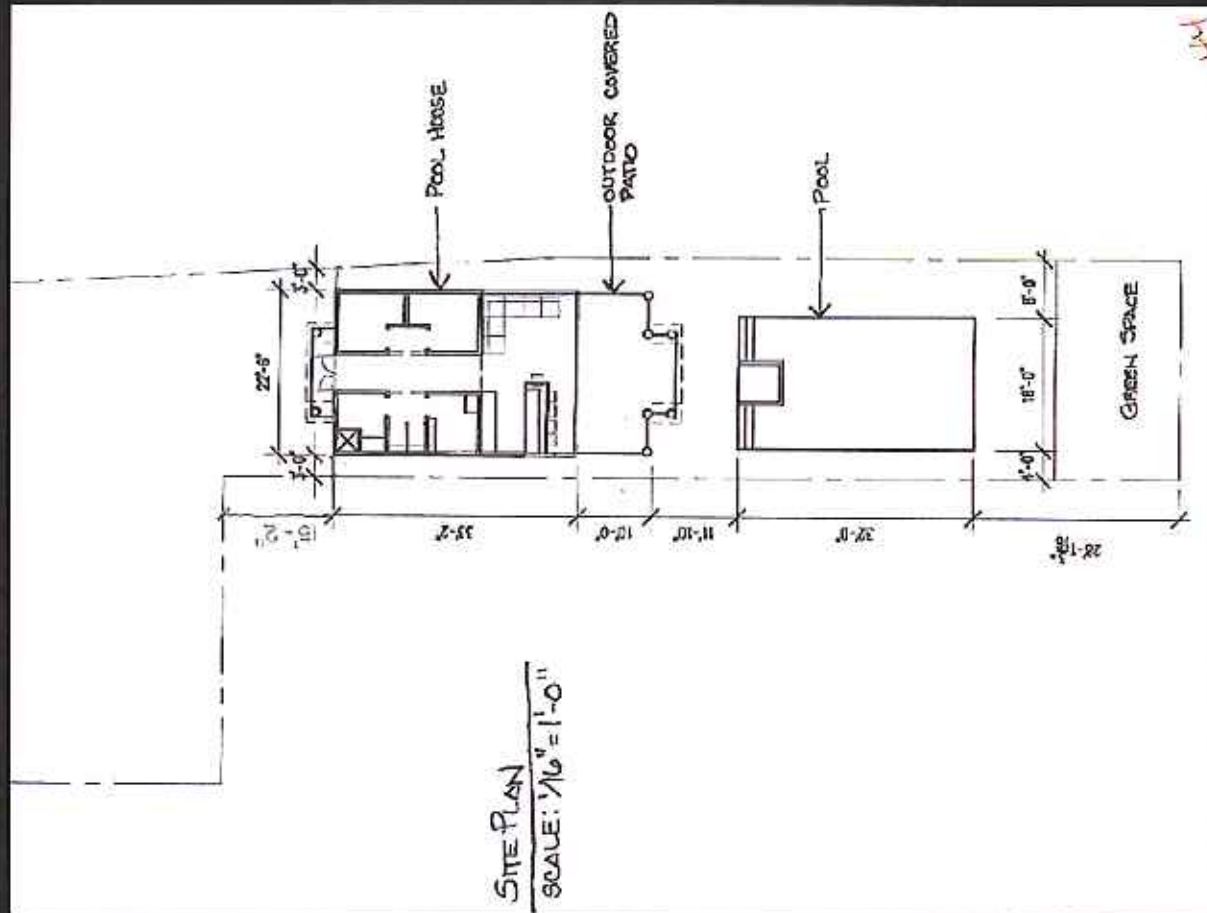
BZA April 2012





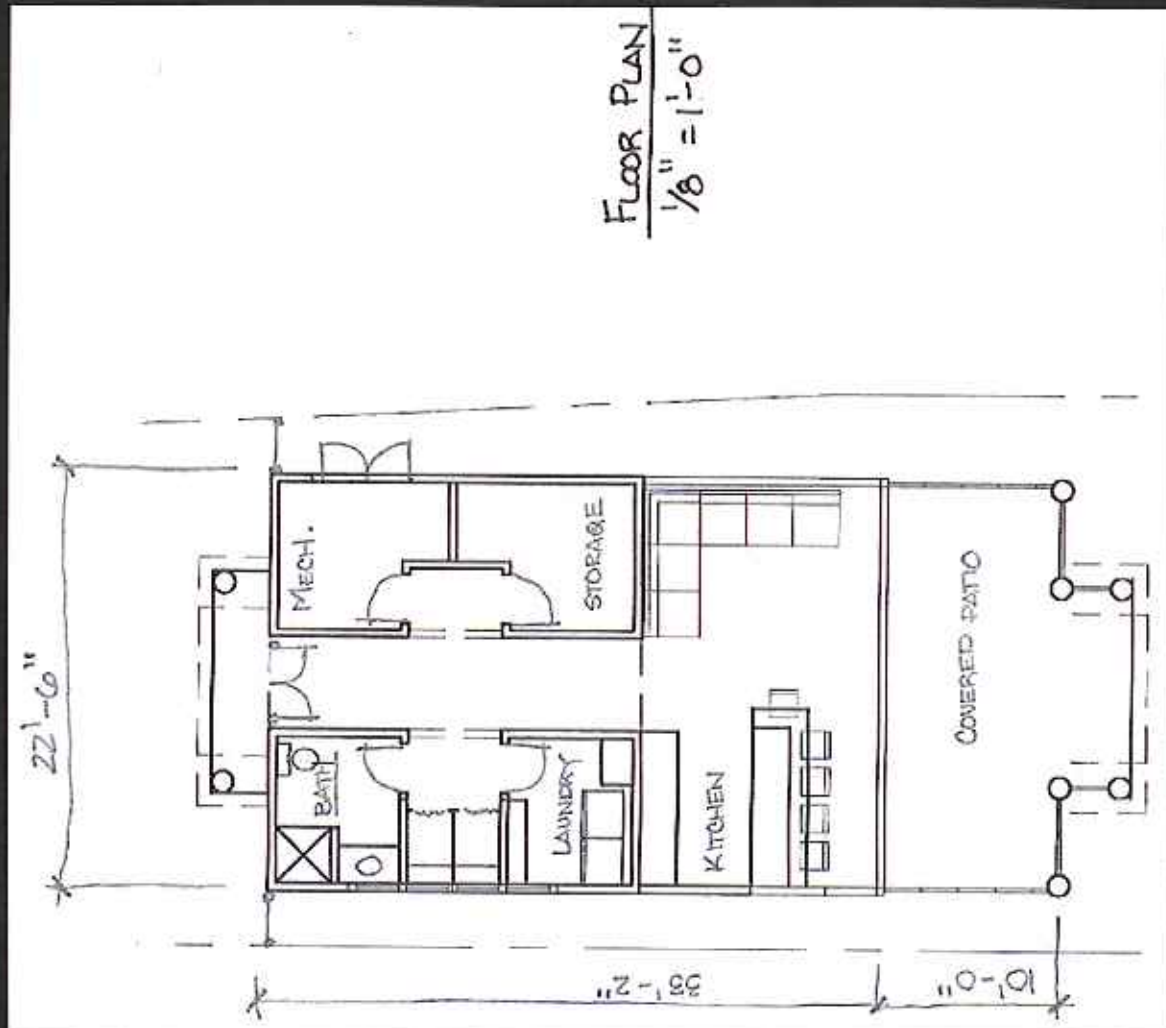
--- BZA April 2012

17873 Lake Road



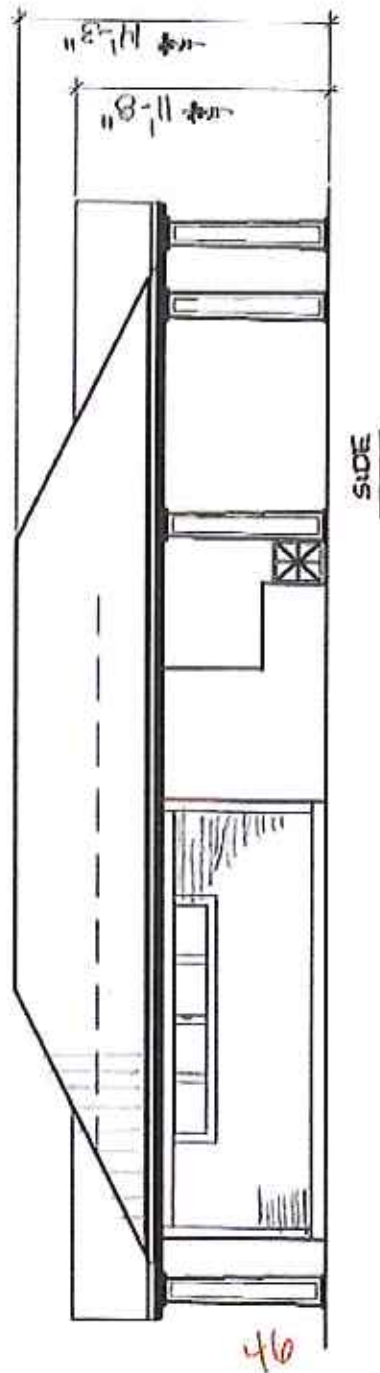
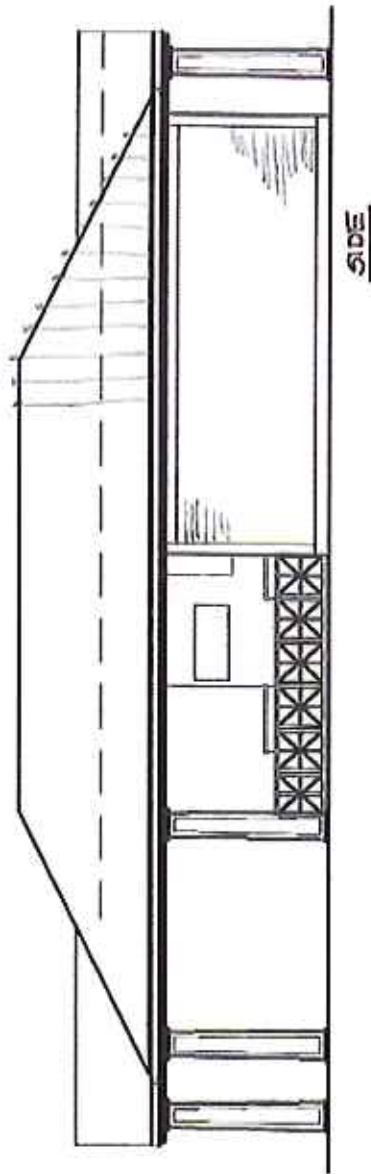
# 17873 Lake Road





17873 Lake Road

EXTERIOR ELEVATIONS  
SCALE: 1/8" = 1'-0"



46



Genral Information	Transfer History	Certified Value	Land Record	Residential Bldg. Switch	Taxes	Search Page								
<b>PARCEL ID</b> 311-06-008 <b>OWNERS NAME</b> STARCK, JOSEPH P. JR. & REBECC <b>ADDRESS</b> 17873 LAKE RD <b>CITY</b> LAKEWOOD <b>ZIP</b> 44107														
<b>Land Record</b> <table border="1"> <thead> <tr> <th>RECORD NUMBER</th> <th>LAND TYPE</th> <th>LEGAL FRONT</th> <th>LEGAL DEPTH</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>PRM</td> <td>106</td> <td>198</td> </tr> </tbody> </table>							RECORD NUMBER	LAND TYPE	LEGAL FRONT	LEGAL DEPTH	1	PRM	106	198
RECORD NUMBER	LAND TYPE	LEGAL FRONT	LEGAL DEPTH											
1	PRM	106	198											
<b>Field Definitions</b> <table border="1"> <thead> <tr> <th>EFFECTIVE FRONT</th> <th>AVG DEPTH</th> <th>LOT SIZE (SQ FT.)</th> </tr> </thead> <tbody> <tr> <td>59.8</td> <td>198</td> <td>68,389</td> </tr> </tbody> </table>							EFFECTIVE FRONT	AVG DEPTH	LOT SIZE (SQ FT.)	59.8	198	68,389		
EFFECTIVE FRONT	AVG DEPTH	LOT SIZE (SQ FT.)												
59.8	198	68,389												

General Information

Transfer History

Certified Values

Land Record

Residential Blg. Sketch

Taxes

Search Page

PARCEL ID

OWNERS NAME

ADDRESS

CITY

ZIP

311-06-007

STARCK, JOSEPH P. JR. & REBEC

17873 LAKE RD

LAKEWOOD

44107

Field Definitions

Land Record

RECORD NUMBER

LAND TYPE

LEGAL FRONT

LEGAL DEPTH

1

PRM

75

180

EFFECTIVE FRONT

AVG DEPTH

LOT SIZE (SQFT.)

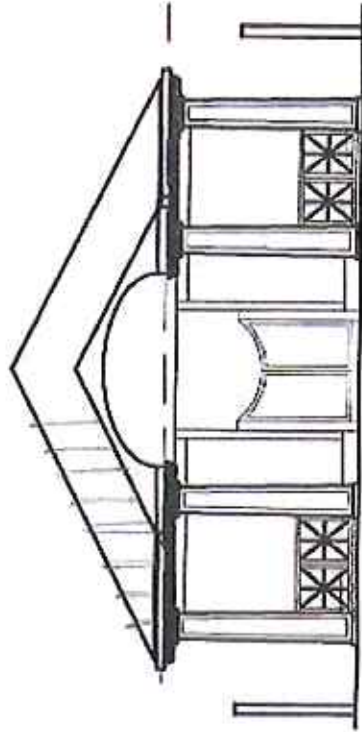
70

180

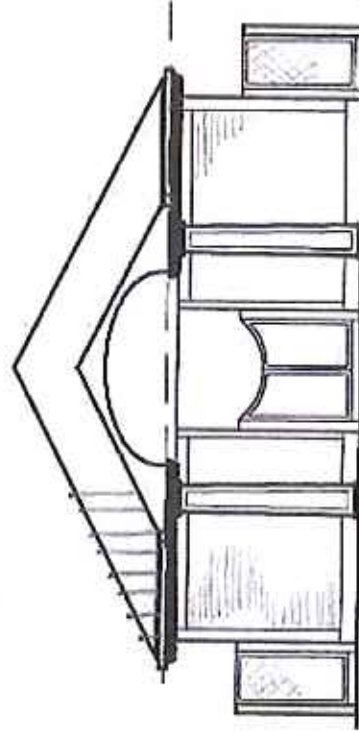
12,500

CUYAHOGA COUNTY ASSUMES NO LIABILITY FOR DAMAGES AS A RESULT OF ERRORS, OMISSIONS OR DISCREPANCIES CONTAINED IN THESE PAGES. PROSPECTIVE PURCHASERS SHOULD CONSULT A REAL ESTATE ATTORNEY AND PURCHASE A TITLE INSURANCE POLICY PRIOR TO THE SALE.

EXTERIOR ELEVATIONS  
SCALE:  $\frac{1}{8}" = 1'-0"$



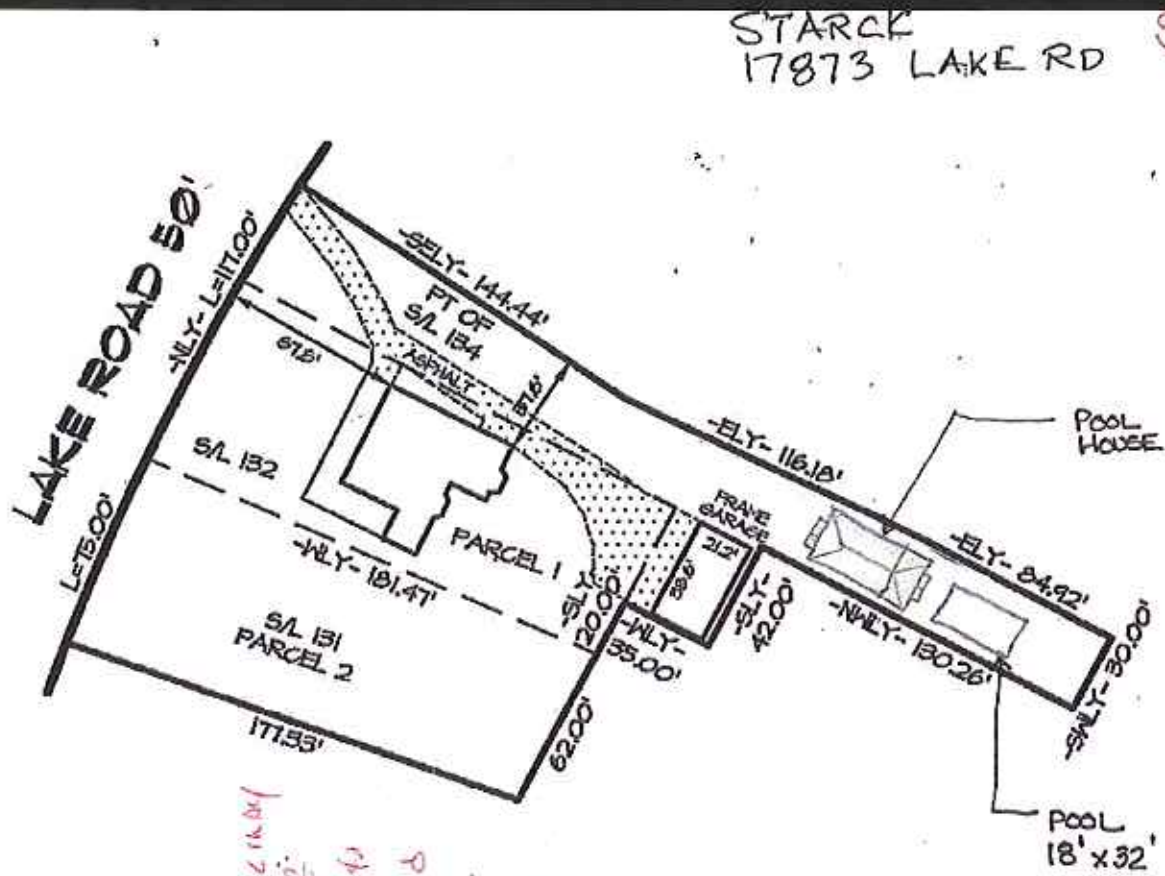
REAR



FRONT

49





H-3-14  
LAKESIDE 2.1241  
ADJACENT to  
J. VANWATER  
SIDE YARD  
of 10 ft.  
1101.10 (c)

17873 Lake Road



17873 Lake Road









## 14013 Detroit Avenue GetGo

BZA, April 2012



# Board of Zoning Appeals

April 2012

